LEAGUE OF NATIONS

1924

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ARBITRATION, SECURITY AND REDUCTION OF ARMAMENTS

Documents and Proceedings of the FIFTH ASSEMBLY

(September 1924)

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INTRODUCTORY NOTE.

This brochure forms the sequel to the one issued on September 11th containing the speeches delivered in the special debate of the Fifth Assembly of the League of Nations on the subject of reduction of armaments. The Assembly Committees were then in session considering in detail the relevant documents and other points referred to them by the Resolution adopted on September 6th. These two Committees, namely, the First Committee which was concerned with the arbitration side of the resolution, and the Third Committee, concerned with security and armaments, submitted their final conclusions to the Assembly on October 1st in the form of the Protocol for the Pacific Settlement of International Disputes, which the Assembly unanimously recommended to the acceptance of the Governments. The Council was also requested to undertake various measures in preparation for the disarmament conference foreshadowed in the Protocol, and, immediately after the close of the Assembly, the Council laid down the lines on which its preparatory work should proceed. This includes the appointment of a committee of jurists to consider amendments to the Covenant rendered necessary by the terms of the Protocol, the preparation of a plan for the execution of financial and economic sanctions, and the preparation of a definite programme for the consideration of the disarmament conference.

The annexes to this brochure include those articles of the Covenant to which the terms of the Protocol relate and to which references were made during the general discussion.

GENEVA, 31st October, 1924.

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I

RESOLUTION ADOPTED BY THE FIFTH ASSEMBLY

on September 6th, 1924.

The Assembly,

Noting the declarations of the Governments represented,
Observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace, and
Decides as follows :

With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

1. The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require.

2. The First Committee is requested :

(*a*) To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes ;

(*b*) To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause ;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States.

II

PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened ;

Recognising the solidarity of the members of the international community ;

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime ;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and of ensuring the repression of international crimes ; and

For the purpose of realising, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations ;

The undersigned, duly authorised to that effect, agree as follows:

Article 1.

The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the Protocol.

Article 2.

The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol.

Article 3.

The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without

prejudice to the right of any State, when acceding to the special protocol provided for in the said article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol after its coming into force must carry out the above obligation within the month following their accession.

Article 4.

With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure :

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.
2. (*a*) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.

   (*b*) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(*c*) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.

4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (*b*) above.

5. In no case may a solution upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned be again called in question.

6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided

for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.

7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

Article 5.

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated in Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6.

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement :

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (*a*), (*b*) and (*c*) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4 above.

Article 7.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint

requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudge the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present article decisions of the Council may be taken by a two-thirds majority.

Article 8.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4 and 5 of Article 7.

Article 9.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may, at the request and at the expense of one or more of the conterminous States, be placed under a temporary or permanent system of supervision to be organised by the Council.

Article 10.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare :

(1) if it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State ; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant ;

(2) if it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the

belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority, and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article 11 of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article 11.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

These obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs :

1. Plans of action for the application of the economic and financial sanctions against an aggressor State ;

2 Plans of economic and financial co-operation between a State attacked and the different States assisting it ;

and shall communicate these plans to the Members of the League and to the other signatory States.

Article 13.

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring

to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceeding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

Article 14.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re established.

Article 15.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

Article 16.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it.

Article 17.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained.

Article 18.

Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely, that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

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Article 19.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant.

Article 20.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

Article 21.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given ; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect ; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of

Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol.

DONE at Geneva, on the second day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

III

GENERAL REPORT ON THE PROTOCOL SUBMITTED TO THE FIFTH ASSEMBLY

I. — Introduction.

After being examined for several years by the Third Committee, the problem of the reduction of armaments has this year suddenly assumed a different, a wider and even an unexpected form.

Last year a draft Treaty of Mutual Assistance was prepared, which the Assembly sent to the Members of the League for their

consideration. The replies from the Governments were to be examined by the Fifth Assembly.

At the very beginning of its work, however, after a memorable debate, the Assembly indicated to the Third Committee a new path. On September 6th 1924, on the proposal of the Prime Ministers of France and Great Britain, M. Edouard Herriot and Mr. Ramsay MacDonald, the Assembly adopted the following resolution :

" The Assembly,

" Noting the declarations of the Governments represented, observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace,

" Decides as follow :

" With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

" (1) The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance, prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require :

" (2) The First Committee is requested :

" *(a)* To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes ;

" *(b)* To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the

Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause ;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States. "

This resolution had two merits, first, that of briefly summarising all the investigations made in the last four years by the different organisations of the League in their efforts to establish peace and bring about the reduction of armaments, and, secondly that of indicating the programme of work of the Committees in the hope that, with the aid of past experience, they would at last attain the end in view.

The Assembly had assigned to each Committee a distinct and separate task ; to the First Commiittee, the examination of the pacific settlement of disputes by methods capable of being applied in every case ; to the Third Committee, the question of the security of nations considered as a necessary preliminary condition for the reduction of their armaments.

Each Committee, after a general discussion which served to detach the essential elements from the rest of the problem, referred the examination of its programme to a Sub-Committee, which devoted a large number of meetings to this purpose.

The proposals of the Sub-Committees then led to very full debates by the Committees, which terminated in the texts analysed below.

As, however, the questions submitted respectively to the two Committees form part of an indivisible whole, contact and collaboration had to be established between the Committees by means of a Mixed Committee of nine members and finally by a joint Drafting Committee of four members.

For the same reason, the work of the Committees has resulted in a single draft protocol accompanied by two draft resolutions for which the Committees are jointly responsible.

Upon these various texts, separate reports were submitted, which, being approved by the Committees respectively responsible

for them, may be considered as an official commentary by the Committees.

These separate reports have here been combined in order to present as a whole the work accomplished by the two Committees and to facilitate explanation.

Before entering upon an analysis of the proposed texts, it is expedient to recall, in a brief historical summary, the efforts of the last four years, of which the texts are the logical conclusion.

HISTORICAL STATEMENT.

The problem of the reduction of armaments is presented in Article 8 of the Covenant in terms which reveal at the outset the complexity of the question and which explain the tentative manner in which the subject has been treated by the League of Nations in the last few years.

> " The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations."

Here we see clearly expressed the need of reducing the burden which armaments imposed upon the nations immediately after the war and of putting a stop to the competition in armaments, which was, in itself, a threat to the peace of the world. But, at the same time, there is recognised the duty of safeguarding the national security of the Members of the League and of safeguarding it, not only by the maintenance of a necessary minimum of troops, but also by the co-operation of all the nations, by a vast organisation for peace.

Such is the meaning of the Covenant, which, while providing for reduction of armaments properly so called, recognises at the same time the need of *common action*, by all the Members of the League, with a view to compelling a possible disturber of the peace to respect his *international obligations*.

Thus, in this first paragraph of Article 8, which is so short but so pregnant, mention is made of all the problems which have engaged the attention of our predecessors and ourselves and which the present Assembly has specially instructed us to solve, the problems of *collective security* and the *reduction of armaments*.

Taking up Article 8 of the Covenant, the First Assembly had already outlined a programme. A tits head it placed a pronouncement of the Supreme Council :

> " In order to diminish the economic difficulties of Europe, armies should everywhere be reduced to a peace footing. Armaments should be limited to the lowest possible figure compatible with national security. "

The Assembly also called attention to a resolution of the International Financial Conference of Brussels held a short time before :

> " Recommending to the Council of the League of Nations the desirability of conferring at once with the several Governments concerned with a view to securing a general reduction of the crushing burdens which, on their existing scale, armaments still impose on the impoverished peoples of the world, sapping their resources and imperilling their recovery from the ravages of war. "

It also requested its two Advisory Commissions to set to work at once to collect the necessary information regarding the problem referred to in Article 8 of the Covenant.

From the beginning the work of the Temporary Mixed Commission and of the Permanent Advisory Commission revealed the infinite complexity of the question.

The Second Assembly limited its resolutions to the important, but none the less (if one may say so) secondary, questions of traffic in arms and their manufacture by private enterprise. It only touched upon the questions of military expenditure and budgets in the form of recommendations and, as regards the main question of reduction of armaments, it confined itself to asking the Temporary Mixed Commission to formulate a definite scheme.

It was between the Second and Third Assemblies that the latter Commission, which was beginning to get to grips with the various problems, revealed their constituent elements. In its report it placed on record that :

> " The memory of the world war was still maintaining in in many countries a feeling of insecurity, which was represented in the candid statements in which, at the request of the Assembly, several of them had put forward the requirements of their national security, and the geopraphical and political considerations which contribued to shape their policy in the matter of armaments. "

At the same time, however, the Commission stated :

> " Consideration of these statements as a whole has clearly revealed not only the sincere desire of the Governments to reduce national armaments and the corresponding expenditure to a minimum, but also the importance of the results achieved. These facts " — according to the Commission — " are indisputable, and are confirmed, moreover, by the replies received from Governments to the Recommendation of the Assembly regarding the limitation of military expenditure. "

That is the point we had reached *two years ago* ; there was a *unanimous desire to reduce armaments*. Reductions, though as yet inadequate, had been begun, and there was a *still stronger desire to ensure the security of the world* by a stable and permanent organisation for peace.

That was the position which, after long discussion, gave rise at the Third Assembly *to the famous Resolution XIV* and at the Fourth Assembly *to the draft Treaty of Mutual Assistance*, for which we are now substituting the Protocol submitted to the Fifth Assembly.

What progress has been made during these four years ?

Although the Treaty of Mutual Assistance was approved in principle by eighteen Governments, it gave rise to certain misgivings. We need only recall the most important of these, hoping that a comparison between them and analysis of the new scheme will demonstrate that the First and Third Committees have endea-

voured, with a large measure of success, to dispose of the objections raised and that the present scheme consequently represents an immense advance on anything that has hitherto been done.

In the first place, a number of Governments or delegates to the Assembly argued that the guarantees provided by the draft Treaty of Mutual Assistance did not imply with sufficient definiteness the reduction of armaments which is the ultimate object of our work.

The idea of the Treaty was to give effect to Article 8 of the Covenant, but many persons considered that it did not, in fact, secure the automatic execution of that article. Even if a reduction of armaments was achieved by its means, the amount of the reduction was left, so the opponents of the Treaty urged, to the estimation of each Government, and there was nothing to show that it would be considerable.

With equal force many States complained that no provision had been made for the development of the *juridical and moral elements of the Covenant* by the side of material guarantees. The novel character of the charter given to the nations in 1919 lay essentially in the advent of a moral solidarity which foreshadowed the coming of a new era. That principle ought to have, as its natural consequence, the extension of arbitration and international jurisdiction, wilhout which no human society can be solidly grounded. A considerable portion of the Assembly asked that efforts should also be made in this direction. The draft Treaty seemed from this point of view to be insufficient and ill-balanced.

Finally, the articles relating to partial treaties gave rise, as you are aware, to certain objections. Several Governments considered that they would lead to the establishment of groups of Powers animated by hostility towards other Powers or groups of Powers and that they would cause political tension. The absence of the barriers of compulsory arbitration and judicial intervention was evident here as everywhere else.

Thus, by a logical and gradual process, there was elaborated the system at which we have now arrived.

The reduction of armaments required by the Covenant and

The Covenant of the League of Nations erected a wall of protection around the peace of the world, but it was a first attempt at international organisation and it did not succeed in closing the circle sufficiently thoroughly to leave no opening for war. It reduced the number of possible wars. It did not condemn them all. There were some which it was forced to tolerate. Consequently, there remained, in the system which it established, numerous fissures, which constituted a grave danger to peace.

The new system of the Protocol goes further. It closes the circle drawn by the Covenant ; it prohibits all wars of aggression. Henceforth no purely private war between nations will be tolerated.

This result is obtained by strengthening the pacific methods of procedure laid down in the Covenant. The Protocol completes them and extends them to all international disputes without exception, by making arbitration compulsory.

In reality, the word " arbitration " is used here in a somewhat different sense from that which it has generally had up to now. It does not exactly correspond with the definition given by the Hague Conferences which, codifying a century-old custom, saw in it " the settlement of disputes between States by judges of their own choice and on the basis of respect for law " (Article 37 of the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes).

The arbitration which is now contemplated differs from this classic arbitration in various respects :

(a) It is only part of a great machinery of pacific settlement. It is set up under the auspices and direction of the Council of the League of Nations.

(b) It is not only an instrument for the administration of justice. It is, in addition and above all, an instrument of peace. The arbitrators must no doubt seek in the first place to apply the rules and principles of international law. This is the reason why, as will be seen below, they are bound to consult the Permanent Court of International Justice if one of the parties so requests. But if international law furnishes

no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

(c) It does not rest solely upon the loyalty and good faith of the parties. To the moral and legal force of an ordinary arbitration is added the actual force derived from the international organisation of which the kind of arbitration in question forms one of the principal elements ; the absence of a sanction which has impeded the development of compulsory arbitration is done away with under our system.

In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the intervention of the Council ; in no case can it be thrown on one side thorough the ill-will of one of the disputant States. The awards to which it leads are always accompagnied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

2. Nature of the Rules of the Protocol.

Article 1.

The rules laid down in the Protocol do not all have the same scope or value for the future.

As soon as the Protocol comes into force, its provisions will become compulsory as between the signatory States, and in its dealings with them the Council of the League of Nations will at once be able to exercise all the rights and fulfil all the duties conferred upon it.

demanded by the general situation of the world to-day led us to consider the question of security as a necessary complement to disarmament.

The support demanded from different States by other States less favourably situated had placed the former under the obligation of asking for a sort of moral and legal guarantee that the States which have to be supported would act in perfect good faith and would always endeavour to settle their disputes by pacific means.

It became evident, however, with greater clearness and force than ever before, that if the security and effective assistance demanded in the event of agression was the condition *sine qua non* of the reduction of armaments, it was at the same time the necessary complement of the pacific settlement of international disputes, since the non-execution of a sentence obtained by pacific methods of settlement would necessarily drive the world back to the system of armed force. Sentences imperatively required sanctions or the whole system would fall to the ground.

Arbitration was therefore considered by the Fifth Assembly to be the necessary third factor, the complement of the two others with which it must be combined in order to build up the new system set forth in the Protocol.

Thus, after five years' hard work, we have decided to propose to the Members of the League *the present system of arbitration, security and reduction of armaments* — a system which we regard as being complete and sound.

That is the position with which the Fifth Assembly has to deal to-day. The desire to arrive at a successful issue is unanimous. A great number of the decisions adopted in the past years have met with general approval. There has arisen a thoroughly clear appreciation of the undoubted gaps which have to be filled and of the reasonable apprehensions which have to be dissipated. Conditions have therefore become favourable for arriving at an agreement.

An agreement has been arrived at on the basis of the draft Protocol which is now submitted to you for consideration.

II. — ANALYSIS OF THE SCHEME

1. Work of the First Committee

(Rapporteur : M. POLITIS*)*

Draft Protocol for the Pacific Settlement of International Disputes.

Preamble.

The object of the Protocol, which is based upon the resolution of September 6th, 1924, is to facilitate the reduction and limitation of armaments provided for in Article 8 of the Covenant of the League of Nations by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war.

The general ideas are summarised in the preamble of the Protocol.

COMPULSORY ARBITRATION

(Articles 1 *to* 6, 10, 16, 18 *and* 19 *of the Protocol.)*

I. INTRODUCTION.

Compulsory arbitration is the fundamental basis of the proposed system. It has seemed to be the only means of attaining the ultimate aim pursued by the League of Nations, viz. the establishment of a pacific and legal order in the relations between peoples.

The realisation of this great ideal, to which humanity aspires with a will which has never been more strongly affirmed, pre-supposes, as an indispensable condition, the elimination of war, the extension of the rule of law and the strengthening of the sentiment of justice.

The Covenant of the League of Nations erected a wall of protection around the peace of the world, but it was a first attempt at international organisation and it did not succeed in closing the circle sufficiently thoroughly to leave no opening for war. It reduced the number of possible wars. It did not condemn them all. There were some which it was forced to tolerate. Consequently, there remained, in the system which it established, numerous fissures, which constituted a grave danger to peace.

The new system of the Protocol goes further. It closes the circle drawn by the Covenant ; it prohibits all wars of aggression. Henceforth no purely private war between nations will be tolerated.

This result is obtained by strengthening the pacific methods of procedure laid down in the Covenant. The Protocol completes them and extends them to all international disputes without exception, by making arbitration compulsory.

In reality, the word " arbitration " is used here in a somewhat different sense from that which it has generally had up to now. It does not exactly correspond with the definition given by the Hague Conferences which, codifying a century-old custom, saw in it " the settlement of disputes between States by judges of their own choice and on the basis of respect for law " (Article 37 of the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes).

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no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

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In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the intervention of the Council ; in no case can it be thrown on one side thorough the ill-will of one of the disputant States. The awards to which it leads are always accompagnied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

2. Nature of the Rules of the Protocol.

Article 1.

The rules laid down in the Protocol do not all have the same scope or value for the future.

As soon as the Protocol comes into force, its provisions will become compulsory as between the signatory States, and in its dealings with them the Council of the League of Nations will at once be able to exercise all the rights and fulfil all the duties conferred upon it.

As between the States Members of the League of Nations, the Protocol may in the first instance create a dual regime, for, if it is not immediately accepted by them all, the relations between signatories and non-signatories will still be governed by the Covenant alone while the relations between signatories will be governed by the Protocol as well.

But this situation cannot last. Apart from the fact that it may be hoped that all Members of the League will adhere to it, the Protocol is in no sense designed to create among the States which accept it a restricted League capable of competing with or opposing in any way the existing League. On the contrary, such of its provisions as relate to articles of the Covenant will, as soon as possible, be made part of the general law by amendment of the Covenant effected in accordance with the procedure for revision laid down in Article 26 thereof. The signatory States which are Members of the League of Nations undertake to make every effort to this end.

When the Covenant has been amended in this way, some parts of the Protocol will lose their value as between the said States ; some of them will have enriched the Covenant, while others, being temporary in character, will have lost their object.

The whole Protocol will remain applicable to relations between signatory States which are Members of the League of Nations and signatory States outside the League, or between States coming within the latter category.

It should be added that, as the League realises its aim of universality, the amended Covenant will take the place, as regards all States, of the separate regime of the Protocol.

3. Condemnation of Aggressive War.

Article 2.

The general principle of the Protocol is the prohibition of agressive war.

Under the Covenant, while the old unlimited right of States to make war is restricted, it is not abolished. There are cases in

which the exercise of this right is tolerated ; some wars are prohibited and others are legitimate.

In future the position will be different. In no case is any State signatory of the Protocol entitled to undertake on its own sole initiative an offensive war against another signatory State or against any non-signatory State which accepts all the obligations assumed by the signatories under the Protocol.

The prohibition affects only aggressive war. It does not, of course, extend to defensive war. The right of legitimate self-defence continues, as it must, to be respected. The State attacked retains complete liberty to resist by all means in its power any acts of aggression of which it may be the victim. Without waiting for the assistance which it is entitled to receive from the international community, it may and should at once defend itself with its own force. Its interests are identified with the general interest. This is a point there can be no doubt.

The same applies when a country employs force with the consent of the Council or the Assembly of the League of Nations under the provisions of the Covenant and the Protocol. This eventuality may arise in two classes of cases : either a State may take part in the collective measures of force decided upon by the League of Nations in aid of one of its Members which is the victim of aggression ; or a State may employ force with the authorisation of the Council or the Assembly in order to enforce a decision given in its favour. In the former case, the assistance given to the victim of aggression is indirectly an act of legitimate self-defence. In the latter, force is used in the service of the general interest, which would be threatened if decisions reached by a pacific procedure could be violated with impunity. In all these cases the country resorting to war is not acting on its private initiative but is in a sense the agent and the organ of the community.

It is for this reason that we have not hesitated to speak of the exceptional authorisation of war. It has been proposed that the word " force " should be used in order to avoid any mention of " war "—in order to spare the public that disappointment which it might feel when it found that, notwithstanding the solemn

condemnation of war, war was still authorised in exceptional cases. We preferred, however, to recognise the position frankly by retaining the expression " resort to war " which is used in the Covenant. If we said " force " instead of " war ", we should not be altering the facts in any way. Moreover, the confession that war is still possible in specific cases has a certain value, because the term describes a definite and well-understood situation, whereas the expression "resort to force" would be liable to be misunderstood, and also because it emphasises the value of the sanctions at the disposal of the community of States bound by the Protocol.

4. Compulsory Jurisdiction of the Permanent Court of International Justice.

Article 3.

The general principle of the Protocol could not be accepted unless the pacific settlement of all international disputes without distinction were made possible.

This solution has been found, in the first place, in the extension of the compulsory jurisdiction of the Permanent Court of International Justice.

According to its Statute, the jurisdiction of the Court is, in principle, optional. On the other hand, Article 36, paragraph 2, of the Statute, offers States the opportunity of making the jurisdiction compulsory in respect of all or any of the classes of legal disputes affecting : *(a)* the interpretation of a Treaty ; *(b)* any question of international law ; *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation ; *(d)* the nature or extent of the reparation to be made for the breach of an international obligation. States have only to declare their intention through the special Protocol annexed to the Statute. The undertaking then holds good in respect of any other State which assumes the same obligation. It may be given either unconditionally or on condition of reciprocity on the part of several or certain States · either permanently or for a fixed period.

So far such compulsory jurisdiction has only been accepted by a small number of countries. The majority of States have abstained because they did not see their way to accept compulsory jurisdiction by the Court in certain cases falling within one or another of the classes of dispute enumerated above, and because they were not sure whether, in accepting, they could make reservations to that effect.

It was for this reason that the Assembly in its resolution of September 6th, requested the First Committee to render more precise the terms of Article 36, paragraph 2, in order to facilitate its acceptance.

Careful consideration of the article has shown that it is sufficiently elastic to allow of all kinds of reservations. Since it is open to the States to accept compulsory jurisdiction by the Court in respect of certain of the classes of dispute mentioned and not to accept it in respect of the rest, it is also open to them only to accept it in respect of a portion of one of those classes ; rights need not be exercised in their full extent. In giving the undertaking in question, therefore, States are free to declare that it will not be regarded as operative in those cases in which they consider it to be inadmissible.

We can imagine possible, and therefore legitimate, reservations either in connection with a certain class of dispute or, generally speaking, in regard to the precise stage at which the dispute may be laid before the Court. While we cannot here enumerate all the conceivable reservations, it may be worth to mention merely as examples those to which we referred in the course of our discussions.

From the class of disputes relating to " the interpretation of a treaty " there may be excluded, for example, disputes as to the interpretation of certain specified classes of treaty such as political treaties, peace treaties, etc.

From the class of disputes relating to " any point of international law " there may be excluded, for example, disputes as to the application of a political treaty, etc., or as to any specified question or disputes which might arise as the outcome of hostilities initiated

by one of the signatory States in agreement with the Council or the Assembly of the League of Nations.

Again, there are many possible reservations as to the precise stage at which a dispute may be laid before the Court. The most far-reaching of these would be to make the resort to the Court in connection with every dispute in respect of which its compulsory jurisdiction is recognised contingent upon the establishment of an agreement for submission of the case which, failing agreement between the parties, would be drawn up by the Court itself, the analogy of the provisions of the Hague Convention of 1907 dealing with the Permanent Court of Arbitration being thus followed.

It might also be stated that the recognition of the compulsory jurisdiction of the Court does not prevent the parties to the dispute from agreeing to resort to a preliminary conciliation procedure before the Council of the League of Nations or any other body selected by them, or to submit their disputes to arbitration in preference to going before the Court.

A State might also, while accepting compulsory jurisdiction by the Court, reserve the right of laying disputes before the Council of the League with a view to conciliation in accordance with paragraphs 1-3 of Article 15 of the Covenant, with the proviso that neither party might, during the proceedings before the Council take proceedings against the other in the Court.

It will be seen, therefore, that there is a very wide range of reservations which may be made in connection with the undertaking referred to in Article 36, paragraph 2. It is possible that apprehensions may arise lest the right to make reservations should destroy the practical value of the undertaking. There seems, however, to be no justification for such misgivings. In the first place, it is to be hoped that every Government will confine its reservations to what is absolutely essential. Secondly, it must be recognised that, however restrictive the scope of the undertaking may be, it will always be better than no undertaking at all.

The fact that the signatory States undertake to accede, even though it be with reservations, to paragraph 2 of Article 36 may therefore be held to constitute a great advance.

Such accession must take place at latest within the month following upon the coming into force or subsequent acceptance of the Protocol.

It goes without saying that such accession in no way restricts the liberty which States possess, under the ordinary law, of concluding special agreements for arbitration. It is entirely open to any two countries signatory of the Protocol which have acceded to paragraph 2 of Article 36 to extend still further, as between themselves, the compulsory jurisdiction of the Court, or to stipulate that before having recourse to its jurisdiction they will submit their disputes to a special procedure of conciliation or even to stipulate, either before or after a dispute has arisen, that it shall be brought before a special tribunal of arbitrators or before the Council of the League of Nations rather than to the Court.

It is also certain that up to the time of the coming into force or acceptance of the Protocol accession to paragraph 2 of Article 36, which will thenceforth become compulsory, will remain optional, and that if such accession has already taken place it will continue to be valid in accordance with the terms under which it was made.

The only point which may cause difficulty is the question what is the effect of accessions given in virtue of the Protocol if the latter becomes null and void. It may be asked whether such accessions are to be regarded as so intimately bound up with the Protocol that they must disappear with it. The reply must be in the negative. The sound rule of interpretation of international treaties is that, unless there is express provision to the contrary, effects already produced survive the act from which they sprang.

The natural corollary is that any State which wishes to make the duration of its accession to Article 36 dependent on the duration of the Protocol must make an express stipulation to this effect. As Article 36 permits acceptance of the engagement in question for a specified term only, a State may, when acceding, stipulate that it only undertakes to be bound during such time as the Protocol shall remain in force.

5. Strengthening of Pacific Methods of Procedure.

Article 4.

We have, in the second place, succeeded in making possible the pacific settlement of all disputes by strengthening the procedure laid down in the Covenant.

Article 4, *paragraph* 1.

Action by the Council with a view to reconciliation. If a dispute does not come within the compulsory jurisdiction of the Permanent Court of International Justice and if the Parties have been unable to come to an agreement to refer it to the Court or to submit it to arbitration, it should, under the terms of Article 15 of the Covenant, be submitted to the Council, which will endeavour to secure a settlement by reconciling the parties. If the Council's efforts are successful, it must, so far as it considers it advisable, make public a statement giving such facts and explanations regarding the dispute and the terms of settlement thereof as it may deem appropriate.

In this connection no change has been made in the procedure laid down by the Covenant. It appeared unnecessary to specify what particular procedure should be followed. The Council is given the utmost latitude in choosing the means most appropriate for the reconciliation of the parties. It may take advice in various quarters ; it may hear expert opinions ; it may proceed to investigations or expert enquiries, whether by itself or through the intermediary of experts chosen by it ; it may even, upon application by one of the parties, constitute a special conciliation committee. The essential point is to secure, if possible, a friendly settlement of the dispute ; the actual methods to be employed are of small importance. It is imperative that nothing should in any way hamper the Council's work in the interests of peace. It is for the Council to examine the question whether it would

be expedient to draw up for its own use and bring to the notice of the Governments of the signatory States general regulations of procedure applicable to cases brought before it and designed to test the goodwill of the parties with a view to persuading them more easily to reach a settlement under its auspices.

Experience alone can show whether it will be necessary to develop the rules laid down in the first three paragraphs of Article 15 of the Covenant.

For the moment it would appear to be expedient to make no addition and to have full confidence in the wisdom of the Council, it being understood that, whether at the moment in question or at any other stage of the procedure, it will be open to the parties to come to an agreement for some different method of settlement : by way of direct understanding, constitution of a special committee of mediators or conciliators, appeal to arbitration or to the Permanent Court of International Justice.

The new procedure set up by the Protocol will be applicable only in the event of the Council's failing in its efforts at reconciliation and of the parties failing to come to an understanding in regard to the method of settlement to be adopted.

In such case, before going further, the Council must call upon the parties to submit their dispute to judicial settlement or to arbitration.

It is only in the case where this appeal — which the Council will make in the manner which appears to it most likely to secure a favourable hearing — is not listened to that the procedure will acquire the compulsory character which is necessary to make certain the final settlement of all disputes.

There are three alternatives :

(a) Compulsory arbitration at the request of one of the parties ;
(b) A unanimous decision by the Council ;
(c) Compulsory arbitration enjoined by the Council.

Appropriate methods are laid down for all three cases.

Article 4, paragraph 2.

First case of Compulsory Arbitration. — If the parties, being called upon by the Council to submit their dispute to a judicial or arbitral settlement, do not succeed in coming to an agreement on the subject, there is no question of optional arbitration, but if a single party desires arbitration, arbitration immediately becomes compulsory.

The dispute is then *ipso facto* referred to a Committee of Arbitrators, which must be constituted within such time limit as the Council shall fix.

Full liberty is left to the parties themselves to constitute this Committee of Arbitrators. They may agree between themselves in regard to the number, names and powers of the arbitrators and the procedure. It is to be understood that the word " powers " is to be taken in the widest sense, including, *inter alia*, the questions to be put.

It was not considered desirable to develop this idea further. It appeared to be sufficient to state that any result which could be obtained by means of an agreement between the parties was preferable to any other solution.

It also appeared inexpedient to define precisely the powers which should be conferred upon the arbitrators. This is a matter which depends upon the circumstances of each particular case. According to the case, the arbitrators, as is said above, may fill the rôle of judges giving decisions of pure law or may have the functions of arranging an amicable settlement with power to take account of considerations of equity.

It has not been thought necessary to lay this down in the form of a rule. It has appeared preferable to leave it in each case to the parties to agree between themselves to decide the matter according to the circumstances of the case.

Nevertheless, consideration has been given to the possibility that the arbitrators need not necessarily be jurists. It has therefore been decided that, when called upon to deal with points of law they shall, if one of the parties so desires, request, through the

medium of the Council, the advisory opinion of the Permanent Court of International Justice, which must, in such a case, meet with the utmost possible despatch. The opinion of the Court is obtained for the assistance of the arbitrators ; it is not legally binding upon them, although its scientific authority must, in all cases, exercise a strong influence upon their judgment. With a view to preventing abusively frequent consultations of this kind, it is understood that the opinion of the Court in regard to disputed points of law can only be asked on a single occasion in the course of each case.

The extension which, in the new system of pacific settlement of disputes, has been given to the advisory procedure of the Court has suggested the idea that it might be desirable to examine whether, even in such cases, it might not be well to adopt the system of adding national judges which at present only obtains in litigious proceedings, and also that of applying to the advisory procedure the provisions of Article 24 of the Statute of the Court relating to withdrawal of judges.

If the parties have not been able to come to an understanding on all or on some of the points necessary to enable the arbitration to be carried out, it lies with the Council to settle the unsettled points, with the exception of the formulation of the questions to be answered, which the arbitrators must seek in the claims set out by the parties or by one of them if the others make default.

In cases where the selection of arbitrators thus falls upon the Council, it has appeared necessary — however much confidence may be felt in the Council's wisdom — to lay down for the selection of the arbitrators certain rules calculated to give the arbitration the necessary moral authority to ensure that it will in practice be respected.

The first rule is that the Council shall, before proceeding to the selection of arbitrators, have regard to the wishes of the parties. It was suggested that this idea should be developed by conferring on the parties the right to indicate their preferences and to challenge a certain number of the arbitrators proposed by the Council.

This proposal was set aside on account of the difficulty of laying

down detailed regulations for the exercise of this double right. But it is understood that the Council will have no motive for failing to accept the candidates proposed to it by the different parties nor for imposing upon them arbitrators whom they might wish to reject, nor, finally, for failing to take into account any other suggestion which the parties might wish to make. It is indeed evident that the Council will always be desirous of acting in the manner best calculated to increase to the utmost degree the confidence which the Committee of Arbitrators should inspire in the parties.

The second rule is based on the same point of view. It lays down the right of the Council to select the arbitrators and their president from among persons who, by their nationality, their personal character and their experience, appear to furnish the highest guarantees of competence and impartiality.

Here, too, experience will show whether it would be well for the Council to draw up general regulations for the composition and functioning of the compulsory arbitration now in question and of that above referred to, and for the conciliation procedure in the Council itself. Such regulations would be made for the Council's own use but would be communicated to the Governments of the signatory States.

Article 4, *paragraph* 3.

Unanimous decision by the Council. If arbitration is refused by both parties, the case will be referred back to the Council, but this time it will acquire a special character. Refusal of arbitration implies the consent of both parties to a final settlement of the dispute by the Council. It implies recognition of an exceptional jurisdiction of the Council. It denotes that the parties prefer the Council's decision to an arbitral award.

Resuming the examination of the question, the Council has not only the latitude which it customarily possesses. It is armed with full powers to settle the question finally and irrevocably if it is unanimous. Its decision, given unanimously by all the members

other than those representing parties to the dispute, is imposed upon the parties with the same weight and the same force as the arbitration award which it replaces.

Article 4, paragraph 4.

Second case of Compulsory Arbitration. If the Council does not arrive at a unanimous decision, it has to submit the dispute to the judgment of a Committee of Arbitrators, but this time, owing to the parties being deemed to have handed their case over to the Council, the organisation of the arbitration procedure is taken entirely out of their hands. It will be for the Council to settle all the details, the composition, the powers and the procedure of the Committee of Arbitrators. The Council is of course at liberty to hear the parties and even to invite suggestions from them, but it is under no obligation to do so. The only regulation with which it must comply is that, in the choice of arbitrators, it must bear in mind the guarantees of competence and impartiality which, by their nationality, their personal character and their experience, these arbitrators must always furnish.

Article 4, paragraph 6.

Effect of, and Sanction enforcing, Decisions. Failing a friendly arrangement, we are, thanks to the system adopted, in all cases certain of arriving at a final solution of a dispute, whether in the form of a decree of the Permanent Court of International Justice or in the form of an arbitral award or, lastly, in the form of a unanimous decision of the Council.

To this solution the parties are compelled to submit. They must put it into execution or comply with it in good faith.

If they do not do so, they are breaking an engagement entered into towards the other signatories of the Protocol, and this breach involves consequences and sanctions according to the degree of gravity of the case.

If the recalcitrant party confines itself to offering passive resistance to the solution arrived at, it will first be the object of pacific pressure from the Council, which must exercise all its influence to persuade it to respect its engagements. If the Council is unsuccessful, it must propose measures calculated to ensure effect being given to the decision.

On this point the Protocol has been guided solely by the regulation contained at the end of Article 13 of the Covenant. The Council may thus institute against the recalcitrant party collective sanctions of an economic and financial order. It is to be supposed that such sanctions will prove sufficient. It has not appeared possible to go further and to employ force against a State which is not itself resorting to force. The party in favour of which the decision has been given might, however, employ force against the recalcitrant party if authorised to do so by the Council.

But if the State against which the decision has been given takes up arms in resistance thereto, thereby becoming an aggressor against the combined signatories, it deserves even the severe sanctions provided in Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol.

Sphere of Application of Methods of Pacific Procedure. Necessary as the system which we have laid down is for the purpose of ensuring settlement of all disputes, in applying it, the pacific aim which underlies it must be the only guide. It must not be diverted to other purposes and used as an occasion for chicanery and tendencious proceedings by which the cause of peace would lose rather than gain.

A few exceptions to the rule have also had to be made in order to preserve the elasticity of the system. These are cases in which the claimant must be non-suited, the claim being one which has to be rejected *in limine* by the Council, the Permanent Court of International Justice or the arbitrators, as the case may be.

The disputes to which the system will not apply are of three kinds :

Article 4, paragraph 5.

1. The first concerns disputes relating to questions which, at some time prior to the entry into force of the Protocol, have been the subject of a unanimous recommendation by the Council accepted by one of the parties concerned. It is essential to international order and to the prestige of the Council that its unanimous recommendations, which confer a right upon the State accepting them, shall not be called into question again by means of a procedure based upon compulsory arbitration. Failing a friendly arrangement, the only way which lies open for the settlement of disputes to which these recommendations may give rise is recourse to the Council in accordance with the procedure at present laid down in the Covenant.

Article 4, paragraph 7.

2. The same applies to disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly of the League of Nations. It would certainly not be admissible that compulsory arbitration should become a weapon in the hands of an enemy to the community to be used against the freedom of action of those who, in the general interest, seek to impose upon that enemy respect for his engagements.

In order to avoid all difficulty of interpretation, these first two classes of exceptions have been formally stated in the Protocol.

3. There is a third class of disputes to which the new system of pacific settlement can also not be applied. These are disputes which aim at revising treaties and international acts in force, or which seek to jeopardise the existing territorial integrity of signatory States. The proposal was made to include these exceptions in the Protocol, but the two Committees were unanimous in considering that, both from the legal and from the political point of view, the impossibility of applying compulsory arbitration to such cases was so obvious that it was quite superfluous to make

them the subject of a special provision. It was thought sufficient to mention them in this report.

6. Role of the Assembly under the System set up by the Protocol.

Article 6.

The new procedure should be adapted to the old one, which gave the Assembly the same powers as the Council when a dispute is brought before it, either by the Council itself or at the request of one of the parties.

The question has arisen whether the system of maintaining in the new procedure this equality of powers between the two organs of the League of Nations is a practical one. Some were of opinion that it would be better to exclude intervention by the Assembly. Finally, however, the opposite opinion prevailed ; an appeal to the Assembly may, indeed, have an important influence from the point of view of public opinion. Without going so far as to assign to the Assembly the same rôle as to the Council, it has been decided to adopt a mixed system by which the Assembly is, in principle, substituted for the Council in order that, when a dispute is referred to it in conformity with paragraph 9 of Article 15 of the Covenant, it may undertake, in the place of the Council, the various duties provided for in Article 4 of the present Protocol with the exception of purely executive acts which will always devolve upon the Council. For example, the organisation and management of compulsory arbitration, or the transmission of a question to the Permanent Court of International Justice, must always be entrusted to the Council, because, in practice, the latter is the only body qualified for such purposes.

The possible intervention of the Assembly does not affect in any way the final result of the new procedure. If the Assembly does not succeed in conciliating the parties and if one of them so requests, compulsory arbitration will be arranged by the Council in accordance with the rules laid down beforehand.

If none of the parties asks for arbitration, the matter is referred back to the Assembly, and if the solution recommended by the Assembly obtains the majority required under paragraph 10 of Article 15 of the Covenant, it has the same value as a unanimous decision of the Council.

Lastly, if the necessary majority is not obtained, the dispute is submitted to a compulsory arbitration organised by the Council.

In any event, as in the case where the Council alone intervenes, a definitive and binding solution of the dispute is reached.

7 Domestic Jurisdiction of States.

Article 5.

The present Protocol in no way derogates from the rule of Article 15, paragraph 8, of the Covenant, which protects national sovereignty.

In order that there might be no doubt on this point, it appeared advisable to say so expressly.

Before the Council, whatever be the stage in the procedure set up by the Protocol at which the Council intervenes, the provision referred to applies without any modification.

The rule is applied also to both cases of compulsory arbitration. If one of the States parties to the dispute claims that the dispute or part thereof arises out of a matter which by international law is solely within its jurisdiction, the arbitrators must on this point take the advice of the Permanent Court of International Justice through the medium of the Council, for the question thus put in issue is a legal question upon which a judicial opinion should be obtained.

The Court will thus have to give a decision as to whether the question in dispute is governed by international law or whether it falls within the domestic jurisdiction of the State concerned. Its functions will be limited to this and the question will in any event be referred back to the arbitrators. But, unlike other opinions requested of the Court in the course of a compulsory

arbitration — opinions which for the arbitrators are purely advisory— in the present case the opinion of the Court is compulsory in the sense that, if the Court has recognised that the question in dispute falls entirely within the domestic jurisdiction of the State concerned, the arbitrators will simply have to register this conclusion in their award. It is only if the Court holds that the question in dispute is governed by international law that the arbitrators will again take the case under consideration in order to give a decision upon its substance.

The compulsory character of the Court's opinion, in this case, increases the importance of the double question referred to above, in connection with Article 4, relating to the calling-in of national judges, and the application of Article 24 of the Statute of the Court in matters of advisory procedure.

While the principle of Article 15, paragraph 8, of the Covenant is maintained, it has been necessary, in order to make its application more flexible, to call in aid the rule contained in Article 11 of the Covenant, which makes it the duty of the League of Nations, in the event of war or a threat of war, to " take any action that may be deemed wise and effective to safeguard the peace of nations ", and obliges the Secretary-General to summon forthwith a meeting of the Council on the request of any Member of the League. It is in this way understood that when it has been recognised that a dispute arises out of a matter which is solely within the domestic jurisdiction of one of the parties, that party or its opponent will be fully entitled to call upon the Council or the Assembly to act.

There is nothing new on this simple reference to Article 11. It leaves unimpaired the right of the Council to take such action as it may deem wise and effectual to safeguard the peace of nations. It does not confer new powers or functions on either the Council or the Assembly. Both these organs of the League simply retain the powers now conferred upon them by the Covenant.

In order to dispel any doubt which may arise from the parallel which has been drawn between Article 15, paragraph 8, and Article 11 of the Covenant, a very clear explanation was given in in the course of the discussion in the First Committee.

Where a dispute is submitted to the Council under Article 15 and it is claimed by one party that the dispute arises out of a matter left exclusively within its domestic jurisdiction by international law, paragraph 8 prevents the Council from making any recommendations upon the subject if it holds that the contention raised by the party is correct and that the dispute does in fact arise out of a matter exclusively within that State's jurisdiction.

The effect of this paragraph is that the Council cannot make any recommendation in the technical sense in which that term is used in Article 15, that is to say, it cannot make, even by unanimous report, recommendations which become binding on the parties in virtue of paragraph 6.

Unanimity for the purpose of Article 15 implies a report concurred in by all the members of the Council other than the parties to the dispute. Only a report so concurred in is one which the parties to the dispute are bound to observe, in the sense that, if they resort to war with any party which complies with the recommendations, it will constitute a breach of Article 16 of the Covenant and will set in play the sanctions which are there referred to.

On the other hand, Article 11 is of different scope : first, it operates only in time of war or threat of war ; secondly, it confers no right on the Council or on the Assembly to impose any solution of a dispute without the consent of the parties. Action taken by the Council or the Assembly under this article cannot become binding on the parties to the dispute in the sense in which recommendations under Article 15 become binding, unless they have themselves concurred in it.

One last point should be made clear. The reference which is made to Article 11 of the Covenant holds good only in the eventuality contemplated in Article 15, paragraph 8, of the Covenant. It is obvious that when a unanimous decision of the Council or an arbitral award has been given upon the substance of a dispute, that dispute is finally settled and cannot again be brought either directly or indirectly under discussion. Article 11 of the Covenant does not deal with situations which are covered by rules of law capable of application by a judge. It applies only to cases which

are not yet regulated by international law. In fact, it demonstrates the existence of loop-holes in the law.

The reference to Article 11 in two of the articles of the Protocol (Articles 5 and 10) has advantages beyond those to which attention is drawn in the commentary on lhe text of those articles. It will be an incitement to science to clear the ground for the work which the League of Nations will one day have to undertake with a view to bringing about, through the development of the rules of international law, a closer reconciliation between the individual interests of its Members and the universal interests which it is designed to serve.

8. Determination of the Aggressor.

Article 10.

In order that the procedure of pacific settlement may be accompagnied by the necessary sanctions, it has been necessary to provide for determining exactly the State guilty of aggression to which sanctions are to be applied.

This question is a very complex one, and in the earlier work of the League the military experts and jurists who had had to deal with it found it extremely difficult.

There are two aspects to the problem : first, aggression has to be defined, and, secondly, its existence has to be ascertained.

The definition of aggression is a relatively easy matter, for it is sufficient to say that any State is the agressor which resorts in any shape or form to force in violation of the engagements contracted by it either under the Covenant (if, for instance, being a Member of the League of Nations, it has not respected the territorial integrity or political independance of another Member of the League) or under the present Protocol (if, for instance, being a signatory of the Protocol, it has refused to conform to an arbitral award or to a unanimous decision of the Council). This is the effect of Article 10, which also adds that the violation of the

rules laid down for a demilitarised zone is to be regarded as equivalent to resort to war. The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly may not constitute an actual state of war, should nevertheless be taken into consideration by the Council.

On the contrary, to ascertain the existence of aggression is a very difficult matter, for although the first of two elements which together constitute aggression, namely, the violation of an engagement, is easy to verify, the second, namely, resort to force, is not an easy matter to ascertain. Whe none country attacks another, the latter necessarily defends itself, and when hostilities are in progress on both sides, the question arises which party began them.

This is a question of fact concerning which opinions may differ.

The first idea which occurs to the mind is to make it the duty of the Council to determine who is the aggressor. But, immediately, the question arises whether the Council must decide this question unanimously, or whether a majority vote would suffice. There are serious disadvantages in both solutions and they are therefore unacceptable.

To insist upon a unanimous decision of the Council exposes the State attacked to the loss of those definite guarantees to which it is entitled, if one single Member of the Council — be it in good faith or otherwise — insists on adhering to an interpretation of the facts different from that of all his colleagues. It is impossible to admit that the very existence of a nation should be subject to such a hazard. It is not sufficient to point out that the Council would be bound to declare the existence of aggression in an obvious case and that it could not fail to carry out its duty. The duty would be a duty without a sanction and if by any chance the Council were not to do its duty, the State attacked would be deprived of all guarantees.

But it would also be dangerous to rely on a majority vote of the Council. In that case, the danger would be incurred by the State

called upon to furnish assistance and to support the heavy burden of common action, if it still entertained some doubt as to the guilt of the country against which it had to take action. Such a country would run the risk of having to conform to a decision with which it did not agree.

The only escape from this dilemma appeared to lie in some automatic procedure which would not necessarily be based on a decision of the Council. After examining the difficulty and discussing it in all its aspects, the First Committee believes that it has found the solution in the idea of a presumption which shall hold good until the contrary has been established by a unanimous decision of the Council.

The Committee is of opinion that this presumption arises in three cases, namely, when a resort to war is accompanied :

By a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom ;

By violation of provisional measures enjoined by the Council as contemplated by Article 7 of the Protocol ;

Or by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party and by failure or by refusal to submit the question first to the Council or the Assembly.

In these cases, even if there is not absolute certainty, there exists at any rate a very strong presumption which should suffice for the application of sanctions unless proof to the contrary has been furnished by a unanimous decision of the Council.

It will be noticed that there is a characteristic difference between the first two cases and the third.

In the first two cases the presumption exists when, in addition to a state of war, the special condition referred to is also fulfilled.

In the third case, however, the presumption is dependent upon three conditions · disobedience to a decision, wilful failure to take advantage of the remedy provided in Article 11 of the Covenant, and the existence of a state of war.

This difference is due to the necessity of taking into account the provisions of Article 5 analysed above, which, by its reference to Article 11 of the Covenant, renders the application of paragraph 8 of Article 15 of the Covenant more flexible. After very careful consideration it appeared that it would be unreasonable and unjust to regard as *ipso facto* an aggressor a State which, being prevented through the operation of paragraph 8 of Article 15 from urging its claims by pacific methods and being thus left to its own resources, is in despair driven to war.

It was considered to be more in harmony with the requirements of justice and peace to give such a State which has been non-suited on the preliminary question of the domestic jurisdiction of its adversary, a last chance of arriving at an amicable agreement by offering it the final method of conciliation prescribed in Article 11 of the Covenant. It is only if, after rejecting this method, it has recourse to war that it will be presumed to be an aggressor.

This mitigation of the rigid character of paragraph 8 of Article 15 has been accepted, not only because it is just, but also because it opens no breach in the barrier set up by the Protocol against aggressive war : it in no way infringes the principle — which remains unshaken — that a war undertaken against a State whose exclusive jurisdiction has been formally recognised is an international crime to be avenged collectively by the signatories of the Protocol.

When a State whose demands have been met with the plea of the domestic jurisdiction of its adversary has employed the resource provided for in Article 11 of the Covenant, the presumption of aggression falls to the ground. The aggression itself remains. It will be for the Council to decide who is responsible for the aggression in accordance with the procedure which will be described below.

Apart from the above cases, there exists no presumption which can make it possible automatically to determine who is the aggressor. But this fact must be determined, and, if no other solution can be found, the decision must be left to the Council. The

same principle applies where one of the parties is a State which is not a signatory of the Protocol and not a Member of the League.

If the Council is unanimous, no difficulty arises. If, however, the Council is not unanimous, the difficulty is to be overcome by directing that the Council must enjoin upon the belligerents an armistice the terms of which it will fix if need be by a two-thirds majority and the party which rejects the armistice or violates it is to be held to be an aggressor.

The system is therefore complete and is as automatic as it can be made.

Where a presumption has arisen and is not rejected by a unanimous decision of the Council, the facts themselves decide who is an aggressor ; no further decision by the Council is needed and the question of unanimity or majority does not present itself ; the facts once established, the Council is bound to act accordingly.

Where there is no presumption, the Council has to declare the fact of aggression ; a decision is necessary and must be taken unanimously. If unanimity is not obtained, the Council is bound to enjoin an armistice, and for this purpose no decision properly speaking has to be taken ; there exists an obligation which the Council must fulfil ; it is only the fixing of the terms of the armistice which necessitates a decision, and for this purpose a two-thirds majority suffices.

It was proposed to declare that, in cases of extreme urgency, the Council might determine the aggressor, or fix the conditions of an armistice, without waiting for the arrival of the representative which a party not represented among its members has been invited to send under the terms of paragraph 5 of Article 4 of the Covenant.

It seemed preferable, however, not to lay down any rule on this matter at present but to ask the special Committee which the Council is to appoint for the drafting of amendments to the Covenant on the lines of the Protocol, to consider whether such a rule is really necessary.

It may in fact be thought that the Council already possesses all the necessary powers in this matter and that, in cases of extreme urgency, if the State invited to send a representative is too far distant from the seat of the Council, that body may decide that the representative shall be chosen from persons near at hand and shall attend the meeting within a prescribed period, on the expiry of which the matter may be considered in his absence.

The fact of aggression having been established by presumption or by unanimous decision of the Council or by refusal to accept or violation of the armistice, it will only remain to apply the sanctions and bring into play the obligations of the guarantor States. The Council will merely call upon them to fulfil their duty ; here, again, there is no decision to be taken but an obligation to be fulfilled, and the question of majority or unanimous vote does not arise.

It is not, indeed, a matter of voting at all.

In order to leave no room for doubt, it has been formally laid down that a State which, at the invitation of the Council, engages in acts of violence against an aggressor is in the legal position of a belligerent and may consequently exercise the rights inherent in that character.

It was pointed out in the course of the discussion that such a State does not possess entire freedom of action. The force employed by it must be proportionate to the object in view and must be exercised within the limits and under the conditions recommended by the Council.

Article 18.

Likewise, in order to avoid any misunderstanding, it has been stipulated, in a special Article, that unanimity or the necessary majority in the Council is always calculated according to the rule referred to on several occasions in Article 15 of the Covenant and repeated in Article 16 of the Covenant for the case of expulsion of a Member from the League, viz., without counting the votes of the representatives of the parties to the dispute.

9. Disputes between States Signatory and States Non-Signatory of the Protocol.

Article 16.

As regards the settlement of disputes arising between a State signatory and one or more States non-signatory and non-Members of the League of Nations, the new system has had to be adapted to the former system.

In order that States signatory might enjoy the essential advantages offered by the Protocol, which forbids all wars of aggression, it has been necessary to bring the rule laid down in Article 17 of the Covenant into harmony with the provisions of the Protocol. It has therefore been decided that States non-signatory and non-Members of the League of Nations in conflict with a State signatory shall be invited to conform to the new procedure of pacific settlement and that, if they refuse to do so and resort to war against a State signatory, they shall be amenable to the sanctions provided by Article 16 of the Covenant as defined by the Protocol.

There is no change in the arrangements laid down in the Covenant for the settlement of disputes arising between States Members of the League of Nations of which one is a signatory of the Protocol and the other is not. The legal nexus established by the Covenant between two such parties does not allow the signatory States to apply as of right the new procedure of pacific settlement to non-signatory but Member States. All that signatory States are entitled to expect as regards such other States is that the Council should provide the latter with an opportunity to follow this procedure and it is to be hoped that they will do so. But such States can only be offered an opportunity to follow the new procedure ; they cannot be obliged to follow it. If they refuse, preferring to adhere to the procedure laid down in the Covenant, no sanctions could possibly be applied to them.

The above indicated solution of the case of States non-signatory but Members of the League of Nations appears to be so obvious as to require no special mention in the Protocol. A proposal to

make a special mention of the matter was made, but after explanations had been given, the authors withdrew their suggestion, declaring that they would be satisfied with the above reference to the subject.

At first sight the difference in the way it is proposed to treat non-signatories non-Members of the League of Nations and non-signatories Members of the League may cause some surprise, for it would seem that the signatory States impose greater obligations on the first category than on the second. This, however, is only an appearance. In reality, the signatory States impose no obligations on either category. They cannot do so because the present Protocol is *res inter alios acta* for all non-signatory States, whether they are Members of the League of Nations or not. The signatories merely undertake obligations as between themselves as to the manner in which they will behave if one of them becomes involved in a conflict with a third State. But whereas, in possible conflicts with a State non-signatory and non-Member of the League, they are entirely free to take such action as they choose, in conflicts which may arise between them and States non-signatory but Members, like themselves, of the League of Nations, their freedom of action is to some extent circumscribed because both parties are bound by legal obligations arising under the Covenant.

2. Work of the Third Committee

(*Rapporteur :* M. BENES)

SECURITY AND REDUCTION OF ARMAMENTS

(Articles 7 to 9, 11 to 15, 17 and 21 of the Protocol)

I. INTRODUCTION.

The special work of the Third Committee was to deal with the problem of security (sanctions) and the reduction of armaments.

The work required, above all, important political negotiations. While the question of arbitration only required one political decision of principle, namely, the acceptance of compulsory arbitration, and the remainder was principally a matter of drafting —without question an extremely difficult task—of a scheme for the application of such arbitration, the questions of security and disarmament necessitated long and laborious political negociations; for they involved fundamental interests, questions of vital importance to the States, engagements so far-reaching as radically to change the general situation of the various countries.

Although in the work of the First Committee the Assembly had distinctly indicated in its resolution of September 6th that there was a likelihood—indeed, a necessity—of amending the Covenant, the work of the Third Committee as regards questions of security and reduction of armaments had, in conformity with the debates of the Assembly, to remain within the framework of the Covenant. Above all, it was a question of developing and rendering more precise what is already laid down in the Covenant. All our discussions, all our labours, were guided by these principles, and a delicate task was thus imposed upon us. But the spirit of conciliation which pervaded all the discussions has permitted us to resolve the two problems which were placed before us. This is, indeed, an important result, and if the solution of the problem of arbitration which has been so happily arrived at by the First Committee be also taken into consideration, we are in the presence of a system the adoption of which may entirely modify our present political life.

This is the real import of the articles of the Protocol concerning the questions of security and reduction of armaments.

2. Threat of Aggression : Preventive Measures.

Article 7.

The pacific settlement of disputes being provided for in the present Protocol, the signatory States undertake, should any

conflict arise between them, not to resort to preparations for the settlement of such dispute by war and, in general, to abstain from any act calculated to aggravate or extend the said dispute. This provision applies both to the period preceding the submission of the dispute to arbitration or conciliation and to the period in which the case is pending.

This provision is not unaccompanied by sanctions. Any appeal against the violation of the aforesaid undertaking may, in conformity with Article 11 of the Covenant, be brought before the Council. One might say that, in addition to such primary dispute as is or might be submitted to the Council or to some other competent organ, a second dispute arises, caused by the violation of the undertakings provided for in the first paragraph.

The Council, unless it be of opinion that the appeal is not worthy of consideration, will proceed with the necessary enquiries and investigations. Should it be established that an offence has been committed against the provisions of the first paragraph, it will be the duty of the Council, in the light of the results of such enquiries and investigations, to call upon any State guilty of the offence to put an end thereto. Any such State failing to comply will be declared by the Council to be guilty of violation of the Covenant (Article 11) or the Protocol.

The Council must, further, take the necessary measures to put an end, as soon as possible, to a situation calculated to threaten the peace of the world. The text does not define the nature of these preventive measures. Its elasticity permits the Council to take such measures as may be appropriate in each concrete case, as, for example, the evacuation of territories.

Any decisions which may be taken by the Council in virtue of this Article may be taken by a two-thirds majority, except in the case of decisions dealing with questions of procedure which still come under the general rule of Article 5, paragraph 2, of the Covenant. The following decisions, therefore, can be taken by a two-thirds majority :

The decision as to whether there has or has been an offence against the first paragraph ;

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The decision calling upon the guilty State to remedy the offence ;

The decision as to whether there has or has not been refusal to remedy the offence ;

Lastly, the decision as to the measures calculated to put an end, as soon as possible, to a situation calculated to threaten the peace of the world.

The original text of Article 7 provided that, in the case of enquiries and investigations, the Council should avail itself of the organisation to be set up by the Conference for the Reduction of Armaments in order to ensure respect for the decisions of that Conference. There is no longer any mention of this organisation, but this omission does not prejudice any decisions which the Conference may be called upon to take regarding the matter. It will be entirely free to set up an organisation, if it judges this necessary, and the Council's right to make use of this for the enquiries and investigations contemplated will, *a fortiore*, remain intact.

Article 8.

Article 8 must be considered in relation to Article 2. Article 2 establishes the obligation not to resort to war, while Article 8, giving effect to Article 10 of the Covenant, goes further. The signatories undertake to abstain from any act which might constitute a threat of aggression against any other State. Thus, every act which comes within the scope of this idea of a threat of war — and its scope is sufficiently elastic — constitutes a breach of the Protocol, and therefore a dispute with which the Council is competent to deal.

If, for example, one State alleges that another State is engaged in preparations which are nothing less than a particular form of threat of war (such as any kind of secret mobilisation, concentration of troops, formation of armed bodies with the connivance of the Government, etc.), the Council, having established that there is a case for consideration, will apply the procedure which may

be defined as the procedure of preventive measures ; it will arrange for suitable enquiries and investigations, and, in the event of any breach of the provisions of paragraph 1 being established, will take the steps described in Article 7, paragraph 4.

3. Security : Sanctions.

Article 11, *paragraphs* 1 *and* 2, *of the Protocol in its relation to Article* 10 *and* 16 *of the Covenant.*

According to Article 10 of the Covenant, Members of the League undertake to preserve as against external agression the territorial integrity and existing political independence of all Members of the League. In case of aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

According to Article 16, should any Member of the League resort to war in disregard of its engagements under Articles 12, 13 or 15, all other Members of the League undertake immediately to apply economic sanctions ; furthermore, it shall be the duty of the Council to recommend to the several Governments concerned what effective military, naval or air forces the Members of the League shall severally contribute to the armed forces to be used to protect the engagements of the League.

At the time when they were drafted at the Peace Conference in Paris in 1919, these articles gave rise to keen controversy as to the scope of the engagements entered into in these provisions, that is to say, as to the nature and of the obligations referred to in Article 10, the exact moment at which such obligations arose, and the legal consequences of the Council recommendations referred to in Article 16, paragraph 2. This controversy continued, as is well known, in the debates here in Geneva, where the question has been discussed in previous years.

Article 11 is intended to settle this controversy. The signatories of the present Protocol accept the obligation to apply against the aggressor the various sanctions laid down in the Covenant, as interpreted in Article 11 of the Protocol, when an act of aggres-

sion has been established and the Council has called upon the signatory States immediately to apply such sanctions (Article 10, last paragraph). Should they fail so to do, they will not be fulfilling their obligations.

The nature and extent of this obligation is clearly defined in paragraph 2 of Article 11. According to this paragraph, the reply to the question whether a signatory to the Protocol has or has not fulfilled its obligation depends on whether it has loyally and effectively co-operated in resisting the act of aggression to an extent consistent with its geographical position and its particular situation as regards armaments.

The State remains in control of its forces, and itself, and not the Council, directs them, but paragraph 2 of Article 11 gives us positive material upon which to form a judgment as to whether or not the obligation has been carried out in any concrete case. This criterion is supplied by the term : *loyally and effectively*.

In answering the question whether a State has or has not fulfilled its obligations in regard to sanctions, a certain elasticity in the obligations laid down in Article 11 allows of the possibility of *taking into account, from every point of view, the position of each State which is a signatory to the present Protocol*. The signatory States are not all in possession of equal facilities for acting when the time comes to apply the sanctions. This depends upon the geographical position and economic and social condition of the State, the nature of its population, internal institutions, etc.

Indeed, during the discussion as to the system of sanctions, certain delegations declared that their countries were in a special situation by reason of their geographical position or the state of their armaments. These countries desired to co-operate to the fullest extent of their resources in resistance to every act of agression, but they drew attention to their special conditions. In order to take account of this situation, an addition has been made to paragraph 2 of Article 11 pointing out this state of affairs and laying stress on the particular situation of the countries in question. Moreover, Article 13 of the Protocol allows such countries to inform the Council of these matters beforehand.

I would further add that the obligations I refer to are imperfect obligations in the sense that no sanctions are provided for against any party which shall have failed loyally and effectively to co-operate in protecting the Covenant and resisting every act of aggression. It should, however, be emphasised that such a State would have failed in the fulfilment of its duties and would be guilty of a violation of engagements entered into.

In view of the foregoing, the gist of Article 11, paragraphs 1 and 2, might be expressed as follows : Each State is the judge of the manner in which it shall carry out its obligations but not of the existence of those obligations, that is to say, each State remains the judge of what it will do but no longer remains the judge of what it should do.

Now that the present Protocol has defined more precisely the origin, nature and extent of the obligations arising out of the Covenant, the *functions of the Council, as provided in Articles* 10 *and* 16, *have become clearer and more definite.*

Directly the Council has called upon the signatories to the Protocol to apply without delay the sanctions provided in Article 11, it becomes a regulating, or rather an advisory, body, but not an executive body. The nature of the acts of aggression may vary considerably ; the means for their suppression will also vary. It would frequently be unnecessary to make use of all the means which, according to paragraphs 1 and 2 of Article 11, are, so to speak, available for resisting an act of aggression. It might even be dangerous if, from fear of failing in their duties, States made superfluous efforts. It will devolve upon the Council, which, under Article 13 can be put in possession of the necessary data, to give *its opinion*, should need occur, as to the best means of executing the obligations which arise directly it enjoins the application of sanctions, especially as to the sequence in which the sanctions must be applied.

The practical application of the sanctions would, however, always devolve upon the Governments ; the real co-operation would ensue upon their getting into touch, through diplomatic channels — perhaps by conferences — and by direct relations

between different General Staffs, as in the last war. The Council would, of course, be aware of all these negotiations, would be consulted and make recommendations.

The difference between the former state of affairs and the new will therefore be as follows : According to the system laid down by the Covenant :

1. The dispute arises.

2. In cases where neither the arbitral procedure nor the judicial settlement provided for in Article 13 of the Covenant is applied, the Council meets and discusses the dispute, attempts to effect conciliation, mediation, etc.

3. If it be unsuccessful and war break out, the Council, if unanimous, has to express an opinion as to which party is guilty. The Members of the League then decide for themselves whether this opinion is justified and whether their obligations to apply economic sanctions become operative.

4. The Council then has, *by a unanimous decision, to recommend* military sanctions.

5. If unanimity cannot be obtained, the Council ceasing to take action, each party is practically free to act as it chooses.

According to the new system defined in the Protocol, the situation is as follows :

1. The dispute arises.

2. The system of peaceful settlement provided for by the Protocol comes into play.

3. The Council intervenes, and if, after arbitration has been refused, war is resorted to, if the provisional preventive measures are not observed, etc., the Council decides which party is the aggressor and calls upon the signatory States to apply the sanctions.

4. This decision implies that such sanctions as the case requires — economic, financial, military, naval and air — shall be applied fortwith, and without further recommendations or decisions.

We have therefore the following new elements :

(a) The obligation to apply the necessary sanctions of every kind as a direct result of the decision of the Council.

(b) The elimination of the case in which all parties would be practically free to abstain from any action. The introduction of a system of arbitration and of provisional measures which permits of the determination in every case of the aggressor.

(c) No decision is taken as to the strength of the military, naval and air forces, and no details are given as to the measures which are to be adopted in a particular case. None the less, objective criteria are supplied which define the obligation of each signatory ; it is bound, in resistance to an act of aggression, to collaborate *loyally and effectively* in applying the sanctions in accordance with its geographical situation and its particular situation as regards armaments.

That is why I said that *the great omission in the Covenant has been made good.*

It is true that no burden has been imposed on States beyond the sanctions already provided for in the Covenant. But, at present a State seeking to elude the obligations of the Covenant can reckon on two means of escape.

(1) The Council's recommendations need not be followed.

(2) The Council may fail to obtain unanimity, making impossible any declaration of aggression, so that no obligation to apply military sanctions will be imposed and everyone will remain free to act as he chooses.

We have abandoned the above system and both these loopholes are now closed.

Article 11, *paragraphs* 3 *and* 4.

Paragraph 3 of Article 11 has been drafted with a view to giving greater precision to certain provisions of Article 11, paragraph 3,

of the Covenant. Article 16, paragraph 3, refers to mutual support in the application of financial and economic measures. Article 16, paragraph 3, of the present Protocol establishes real economic and financial co-operation between a State which has been attacked and the various States which come to its assistance.

As, under Article 10 of the Protocol, it may happen that both States involved in a dispute are declared to be aggressors, the question arose as to what would be the best method of settling this problem. There were three alternatives : to apply the principle contained in paragraph 1, which is practically equivalent to making a sort of police war on both parties—or to leave the matter to pursue its course, or, finally, to compel States which disturb the peace of the world to desist from acts of war by the employment of means less severe than those indicated in paragraph 1. It is the last method which has been chosen. Only economic measures will be taken against such States, and naturally they will not be entitled to receive the assistance referred to in Article 11, paragraph 3.

Article 12.

Article 16, paragraph 1, of the Covenant provides for the immediate severance of all trade or financial relations with the aggressor State, and paragraph 3 of the same Article provides, *inter alia,* for economic and financial co-operation between the State attacked and the various States coming to its assistance.

As has already been pointed out, these engagements have been confirmed and made more definite in Article 11 of the Protocol.

But the severance of relations and the co-operation referred to necessarily involve measures so complex that, when the moment arises, doubts may well occur as to what measures are necessary and appropriate to give effect to the obligations assumed under the above provisions. These problems require full consideration in order that States may know beforehand what their attitude should be.

Article 12 defines the conditions of such investigation.

It is not expressly stated that the problem will be examined by the Council in collaboration with the various Governments, but the Council will naturally, if it deems it necessary, invite the Governments to furnish such information as it may require for the purpose of carrying out the task entrusted to it under Article 12.

Article 13, *paragraph* 1.

The above explanation of Article 11, paragraphs 1 and 2, contains many references to Article 13.

As I have already pointed out, in case sanctions have to be applied, it is highly important that there should exist some organ competent to express an opinion as to the best way in which their obligations could be carried out by the signatories. As you are aware, this organ, according to the Covenant, is the Council. In order that the Council may effectively fulfil this duty, Article 13 empowers it to receive undertakings from States, determining *in advance* the military, naval and air forces which they would be able to bring into action immediately in order to ensure the fulfilment of the obligations in regard to sanctions arising out of the Covenant and the present Protocol.

It is also necessary to emphasise the fact that the means which the States signatories to the present Protocol have at their disposal for the fulfilment of the obligations arising out of Article 11 vary considerably owing to the differences in the geographical, economic, financial, political and social condition of different States. Information as to the means at the disposal of each State is therefore indispensable in order that the Council may in full understanding give its opinion as to the best method by which such obligations may best be carried out.

Finally, as regards the question of the reduction of armaments, which is the final goal to which our efforts are tending, the information thus furnished to the Council may be of very great importance, as every State, knowing what forces will be available for its assistance in case it is attacked, will be able to judge to what

extent it may reduce its armaments without compromising its existence as a State, and every State will thus be able to provide the International Conference for the Reduction of Armaments with very valuable data. I should add, moreover, that Article 13, paragraph 1, does not render it compulsory for States to furnish this information. It is desirable that States should furnish the Council with this information, but they are at liberty not to do so.

Article 13, *paragraphs* 2 *and* 3.

The provisions of Article 13, paragraphs 2 and 3, refer to the special agreements which were discussed at such length last year. In view of the fact that, according to paragraph 2, such agreements can only come into force when the Council has invited the signatory States to apply the sanctions, the nature of these agreements may be defined as follows :

Special agreements must be regarded as the means for the rapid application of sanctions of every kind in a particular case of aggression. They are additional guarantees which give weaker States an absolute assurance that the system of sanctions will never fail. They guarantee that there will always be States prepared immediately to carry out the obligations provided for in Article 11 of the Protocol.

In accordance with Article 18 of the Covenant, it is expressly stated that these agreements will be registered and published by the Secretariat, and it has also been decided that they will remain open for signature to any State Member of the League of Nations which may desire to accede to them.

4. Ending of Sanctions : Punishment of the Aggressor.

Article 14.

Article 14 is in perfect keeping with the last paragraphs of Articles 10 and 11. In the paragraphs in question, the coming

into operation of the sanctions depends upon an injunction by the Council ; it therefore also devolves upon the Council to declare that the object for which the sanctions were applied has been attained. Just as the application of the sanctions is a matter for the States, so it rests with them to liquidate the operations undertaken with a view to resisting the act of aggression.

Article 15.

Paragraph 1 is similar to Article 10 of the Draft Treaty of Mutual Assistance drawn up last year.

Paragraph 2 is designed to prevent the sanctions provided for in Article 11 from undergoing any change in character during the process of execution and developing into a war of annexation.

In view of the observations of various delegations regarding the punishment of the aggressor, it should be added that it would be incorrect to interpret this article as meaning that the only penalties to be apprehended by the aggressor as the result of his act shall be the burdens referred to in paragraph 1. If necessary, securities against fresh aggression, or pledges guaranteeing the fulfilment of the obligations imposed in accordance with paragraph 1, might be required. Only annexation of territory and measures involving the loss of political independence are declared inadmissible.

" Territory " is to be taken to mean the whole territory of a State, no distinction being made between the mother-country and the colonies.

5. Reduction of Armaments.

Articles 17 *and* 21.

Although it has not been possible to solve the problem of the reduction of armaments in the clauses of the document submitted to the Assembly for approval, our work paves the way to it and makes it possible.

The reduction of armaments will result, in the first place, from the general security created by a diminution of the dangers of war arising from the compulsory pacific settlement of all disputes.

It will also ensue from the certainty which any State attacked will have of obtaining the economic and financial support of all the signatory States, and such support would be especially important should the aggressor be a great Power, capable of carrying on a long war.

Nevertheless, for States which, owing to their geographical position, are especially liable to attack, and for States whose most important centres are adjacent to their frontiers, the dangers of a sudden attack are so great that it will not be possible for them to base any plan for the reduction of their armaments simply upon the political and economic factors referred to above, no matter what the importance of such factors may be.

It has also been repeatedly declared that many States would require to know what military support they could count on, before the convening of the Conference, if they are to submit to the Conference proposals for large reductions of armaments ; this might necessitate negotiations between the Governments and with the Council before the meeting of the Conference for the reduction of armaments provided for in Article 17. The undertakings referred to in Article 13 of the Protocol should be interpreted in the light of the above.

In drawing up the general programme of the Conference, it will also be necessary, as stated in paragraph 2 of Article 17, for the Council, apart from other criteria, " to take into account the undertakings mentioned ".

In view of the close interdependence of the three great problems involved, namely, the pacific settlement of disputes, sanctions against those who disturb the peace of the world, and reduction of armaments, the Protocol provides for the convening by the Council of a general Conference for the Reduction of Armaments and for the preparation of the work of such a Conference. Furthermore, the application of the clauses concerning arbitration and sanctions will be conditional on the adoption by the said Confer-

ence of a plan for the reduction and limitation of armaments.

Moreover, in order to preserve the connection between the three big problems referred to above, it is provided that the whole Protocol will lapse in the event of the non-execution of the scheme adopted by the Conference. It devolves upon the Council to declare this under conditions to be determined by the Conference itself.

The last paragraph of Article 21 provides for the case of the partial lapsing of the Protocol after it has been put into force. Should the plan adopted by the Conference be regarded as having been put into effect, any State which fails to execute it, so far as it is concerned, will not benefit by the provisions of the Protocol.

6. The Covenant and the Protocol.

Article 19.

The present Protocol emphasises and defines certain obligations arising out of the Covenant. Those of which the present Protocol makes no mention are not affected in any manner. They still exist. Examples which might be quoted are those laid down in Article 16, paragraph 3, of the Covenant, namely, the obligation of the States to give one another mutual support in order to minimise the loss and inconvenience resulting from the application of the economic and financial sanctions or the obligation of the States to take the necessary steps to afford passage through their territory to forces which are co-operating to protect the covenants of the League.

Moreover, as the Swiss Delegation suggests, attention should be directed to the fact that the present Protocol does not in any way affect the special position of Switzerland arising out of the Declaration of the Council at London on February 13th, 1920. As the special position of Switzerland is in accordance with the Covenant, it will also be in accordance with the Protocol.

III. Conclusion.

No further explanations need be added to these comments on the articles. The main principles of the Protocol are clear, as are the detailed provisions.

Our purpose was to make war impossible, to kill it, to annihilate it. To do this, we had to create a system for the pacific settlement of *all disputes* which might arise. In other words, it meant the creation of a system of arbitration from which no international dispute, whether legal or political, could escape. The plan drawn up leaves no loophole ; it prohibits wars of every description and lays down that all disputes shall be settled by pacific means.

But this absolute character which has been given to the system of arbitration should also belong to the whole of the scheme, to the treatment of every question of principle. If there were one single gap in the system, if the smallest opening were left for any measure of force, the whole system would collapse.

Arbitration, therefore, is provided for every kind of dispute, and aggression is defined in such a way as to give no cause for hesitation when the Council has to take a decision.

These reasons led us to fill in the gaps in the Covenant and to define the sanctions in such a way that no possible means could be found of evading them, and that there should be a sound and definite basis for the feeling of security.

Finally, the Conference for the Reduction of Armaments is indissolubly bound up with this whole system : *there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security.*

The peace of the world is at stake.

The Fifth Assembly has undertaken a work of world-wide political importance which, if it succeeds, is destined profoundly to modify present political conditions. This year great progress in this direction has been made in our work. If we succeed, the

League of Nations will have rendered an inestimable service to the whole modern world. Such success depends partly upon the Assembly itself and partly upon individual Governments. We submit to the Assembly the fruit of our labours : a work charged with the highest hopes. We beg the Assembly to examine our proposals with care, and to recommend them to the various Governments for acceptance.

In this spirit and with such hopes do we request the Assembly to vote the draft resolutions 1 and 2 that are presented with this Report.

IV

FINAL ASSEMBLY DEBATES

M. POLITIS,
former Minister for Foreign Affairs and First Delegate of Greece, Rapporteur of the First Committee :

Mr. President, ladies and gentlemen—My distinguished colleague, Mr. Benes and myself are here to-day to report on the work of the First and Third Committees. In your resolution of September 6th you instructed the Committees to study the first two factors in the great problem which the Fifth Assembly was called upon to study, arbitration, security and the reduction of armaments.

We appear upon this platform together because you associated your two Committees in a common task. We have therefore submitted to you a joint report and we will in turn give you at this meeting the additional explanation which will, we hope, gain your unanimous approval for the work that we have done.

I propose to put before you as briefly as possible the conclusions which here reached by the First Committee.

The Resolution of September 6th instructed us to examine the two following questions : firstly to consider, in view of possible amendments, the articles in the Covenant relating to the peaceful settlement of international disputes, and secondly, to examine the terms of Article 36, paragraph 2 of the Statute establishing the Permanent Court of International Justice and to define them more precisely in order to facilitate the more general acceptance of the clause by all States.

I will begin with the second point which requires less explanation.

Article 36 paragraph 2 of the Statute of the Court provides States, which in principle could only recognise the jurisdiction of the Court as optional, with an opportunity of accepting it as compulsory in some of all of the classes of disputes enumerated in Article 13 of the Covenant.

Up to the present only a few States have adhered to the special Protocol opened in virtue of article 36, paragraph 2 of the Statute of the Court, because the majority did not see their way to accept compulsory jurisdiction in all the cases comprised in the classes of dispute referred to, and also because they wer not sure whether in accepting they could make the reservations which they consider indispensable.

Careful examination of Article 36 showed that the elasticity of its terms was such as to admit of a large number of reservations and that States having serious reasons for refusing compulsory arbitration in certain special eventualities are able to do so by means of a formal reservation. Upon these grounds, therefore, we have considered it possible to insert a clause in the Protocol inviting the States to undertake to accept within the month following the

entry into force of the Protocol the compulsory jurisdiction of the Permanent Court of International Justice in some or all of the classes of dispute covered by article 13 of the Covenant subject to reservations which will, we hope, be confined to what is strictly necessary.

Pending the coming is into force of the Protocol States will retain the right conferred upon them by article 36 of adhering to it on their own initiative, optionally, and subject to reservations, and we propose that you should recommend them to adhere to article 36, even before the Protocol has come into force, and consequently before the obligation to sign the article has thereby devolved upon them.

It should not be too hastily concluded that the recognition of the right to adhere to article 36 with reservations is likely to diminish unduly the range of the compulsory jurisdiction of the Court. We are entitled to hope that countries adhering to article 36 will exercise great circumspection in regard to the reservations they make ; it may even be hoped that many of them will be willing to adhere without any reservation other than that of reciprocity.

In any case, whatever the sum total of the reservations made by the States adhering to the special Protocol of article 36, a great advance will have been made which until quite recently appeared impracticable.

So much for the first point submitted to the First Committee for consideration. I now come to the second, which is much more important and which calls for somewhat fuller explanation. Your First Committee was asked to examine the system set up by the Covenant for the settlement of international disputes, in order to see what improvements or additions could be made, with a view to extending the application of pacific procedure to all international disputes without exception.

You are all familiar with the system set up by the Covenant. I need only summarise it very briefly.

Article 12 of the Covenant imposes on the members of the League the general obligation of submitting any disputes which

may arise either to arbitration or to enquiry by the Council. Arbitration therefore remains optional, but it the parties do not agree to have recourse to arbitration they are obliged appear before the Council. The Council makes an enquiry into the case and the dispute is only definitely settled if the Council is unanimous in recommending a solution. A unanimous recommendation by the Council is binding, and a country having resort to war against a State which complies with such a recommendation is regarded as violating the Covenant and incurs the sanctions provided in article 16.

Such, briefly, is the system established by the Covenant. Its imperfections and omissions are self-evident. These imperfections and omissions we have endeavoured to remove and we firmly believe that we have succeeded.

In the Protocol which we submit for your approval a system has been organised which is applicable to all international disputes without exception.

It lays down a certain number of rules which will be compulsorily applied as between States which sign the Protocol.

To begin with, the system will be a two-fold one ; there will be the system of the Covenant, which will be applicable between the States Members of the League, and the special system of the Protocol, which will be applicable between the States who have accepted this diplomatic instrument.

There will not, however, always be two systems. It is proposed that the main provisions of the Protocol should sooner or later be converted into amendments to the Covenant according to the normal procedure of revision laid down in article 26.

One of our resolutions invites the Assembly to request the Council to appoint a special Committee to draft the amendments to the Covenant contemplated by the terms of the Protocol, which will then be submitted for final approval to the next Assembly.

At the root of all the rules contained in the Protocol there is the general principle that, henceforth, wars of aggression are condemned. Henceforth, no war of aggression will be tolerated ;

only acts of legitimate defence or acts undertaken on behalf of or with the autorisation of the community of the signatory States will be allowed, and every private war, every war of aggression, will not only be condemned and regarded as an international crime, but will be attended by sanctions and accompanied by the necessary penalties to prevent it, and in case of need, to suppress it.

In order to secure this result, the Protocol establishes a series of procedures covering every kind of dispute and which, in all cases, result in a definite decision.

This is how the system works. Suppose that under article 15 of the Covenant a dispute which it has proved impossible to settle by judicial means or by arbitration comes before the Council, the Council fails to reconcile the parties, and the latter do not agree, despite a last urgent appeal, to have recourse to optional arbitration. Arbitration then becomes compulsory on the following terms :

Arbitration becomes compulsory first of all if one of the parties demands it. If the parties fail to agree upon the constitution and powers of the arbitrators and upon the procedure, the Council will be called upon to undertake this. Such is the first case of compulsory arbitration provided for in the Protocol.

If either party applies for arbitration, the Council will consider the substance of the dispute and pronounce a decision. This decision can only be taken if the Council is unanimous. It will be binding upon the parties and is attended with sanctions.

If the Council is not unanimous as to the solution to be imposed upon the parties, the dispute will automatically be submitted to arbitration—the second case of compulsory arbitration—the organisation of which is left entirely in the hands of the Council.

You will notice that under the system provided in the Protocol a final and binding settlement is certain to be reached in all disputes either under the first case of arbitration, if requested by either party, or by a unanimous decision of the Council, or under the second case of arbitration, which follows automatically if the Council is not unanimous.

It has been possible to give such wide range to the principle of compulsory arbitration owing to the fact that the Protocol has removed an obstacle which had hitherto prevented the extension of this principle.

At the Assembly meeting on September 6th, I had the honour of pointing out that, whereas with optional arbitration guarantees were needless, with compulsory arbitration they were indispensable.

It is only because we have succeeded in surrounding it in all cases with effective sanctions that we have been able to provide for compulsory arbitration in the cases I have just indicated.

The sanctions enforcing arbitration and, in general, the final decision by which every dispute will henceforth be settled, will vary according to the extent of the resistance offered to the execution of that decision.

If the resistance is purely passive, the sanction will take one of the following two forms. In the first instance the Council will bring pressure to bear and will use all the weight of its authority to induce the recalcitrant parties to submit to the decision. If this peaceful pressure has no effect, the Protocol recalls the fact that under article 13 of the Covenant the Council has the necessary recourses and powers to enforce the decision. The Council will take measures appropriate to the circumstances — usually economic measures.

If the recalcitrant party offers stronger resistance, and if instead of remaining purely passive it has resort to force and so endangers international peace, more drastic sanctions will be applied, namely, those provided for in article 16 of the Covenant as interpreted and amplified in the Protocol ; these sanctions are not merely economic but also military.

Such are the various sanctions which will ensure that in every case the final decision, once it has been pronounced will be treated with the respect due to the pacific settlement of a dispute.

The application of this system is automatic and compulsory as between the signatories of the Protocol. Its application is optional as between members of the League, should some of the parties to the dispute be signatories and others not signatories.

In such an event the State Member of the League which is not a signatory of the Protocol will be invited to accept the pacific procedure provided in the Protocol. If, however, this Member refuses, it cannot be compelled to accept this procedure, and there will be no alternative but to apply the system provided in the Covenant.

The system will apply strictly to States which are neither signatories of the Protocol nor Members of the League. As regards relations between signatories and non-signatories, the Protocol adapts the rules provided in article 17 of the Covenant. The non-signatory will be invited to conform to the pacific procedure of the Protocol. If it refuses and has recourse to war, the sanctions of article 16 of the Covenant, as interpreted and amplified by the provisions of the Protocol, will be applied to it.

The application of this system does not in any way affect the powers of the Council or of the Assembly. Should the Assembly be in a position to intervene in the settlement of disputes under the terms of article 15 of the Covenant, it will retain its full powers. It can undertake an enquiry into a dispute and can recommend a solution, which, if it fulfils the requisite conditions laid down in that Article, will be as final and as binding as a unanimous decision by the Council.

It has, however, been thought necessary to leave it exclusively to the Council to take such purely executive action as may be necessary in the course of pacific procedure, such as the appointment of arbitrators, consultation of the Permanent Court of International Justice and so forth, as the Council is much better qualified than the Assembly to take action of this kind. The general principle of the competence of the Assembly as laid down in Article 15 of the Covenant is, however, retained under the system laid down in the Protocol.

For the purpose of the practical application to all international disputes of the system we have elaborated, we were obliged to take into account the diverse exigencies of international politics and to make the system sufficiently elastic to be adaptable in all circumstances. We have accordingly allowed for a certain

number of exceptions. The Protocol will not apply to the following categories of disputes :— disputes arising out of a unanimous recommendation taken by the Council prior to the coming into force of the Protocol and accepted by at least one of the parties ; disputes arising out of acts of violence committed in the name or with the authorisation of the League ; and disputes which relate to treaties in force and which seek to jeopardise the existing territorial integrity of States.

The Committee decided that it was quite useless to make explicit mention in the Protocol of the third category, as it was obvious that the pacific procedure laid down in the Protocol would not apply in a case of this kind ; the procedure in such cases will be the special procedure stipulated in article 19 of the Covenant for the reconsideration of treaties and the consideration of international conditions.

There is, finally, another category which does not fall within the terms of application of the Protocol, namely, the cases referred to in article 15, paragraph 8 of the Covenant.

This clause provides for the protection of national sovereignty. It prescribes that, if in proceedings before the Council one of the parties to the dispute claims that the question is solely within its domestic jurisdiction, and if the Council unanimously recognises that the claim is justified, the latter must stop the proceedings and must restrict itself to recording the fact without making any recommendation to the parties.

This constitutes what I may call a preliminary question, which must be answered first and which, if answered in the affirmative, will preclude the examination of the substance of the dispute for the reason that such examination is barred under international law.

The Protocol, of course, maintains this rule for the protection of national sovereignty. To avoid any possible ambiguity we decided to mention the fact explicitly in the case of disputes submitted to the Council. We considered it only logical, therefore, that the same rule should apply to the case of disputes submitted to arbitrators.

Should one party claim in proceedings before the arbitrators that the question is solely within its domestic jurisdiction, the arbitrators must, like the Council, restrict themselves to ascertaining whether the claim is correct and must refrain from further action, that is to say, from examining the substance of the matter.

In the case of arbitration procedure, however, we held that, as the disputes in question were of a legal nature, it was desirable that the Permanent Court of International Justice should be consulted compulsorily, and that its opinion in the matter should be binding on the arbitrators—that is to say, if the Court pronounced the question to be really within the domestic jurisdiction of one of the parties, the arbitrators would be bound to confine themselves to recording the fact in their award without examining the substance of the matter.

While, however, the Committee considered it essential that the rule contained in article 15, paragraph 8 of the Covenant, should be explicitly referred to the case of procedure before the Council and adapted to the case of procedure before the arbitrators, we also thought it necessary, in order to make its application more flexible, to make a reference to, important provision of the Covenant, that contained in article 11, under the terms of which, in the event of war or a threat of war the Council will, on the request of any interested party, meet forthwith and consider the best means for safeguarding the peace of the world.

Article 11 is referred to in the Protocol in order, as I said just now, to render article 15, paragraph 8 somewhat more flexible in application.

It is thus agreed that when the Council or the arbitrators have decided that a question comes solely within the jurisdiction of one State, any interested party will have full and unrestricted right to apply for the intervention of the Council or the Assembly under the terms of article 11 of the Covenant.

It is further agreed that the reference to article 11 does not in any way modify the situation contemplated in the Covenant. There is no intention of increasing the powers of the Council or the Assembly in any way whatsoever in cases of this nature.

These bodies can only give opinions which will in no way be binding upon the parties. The settlement recommended by the Council will only become binding subject to the consent of both parties.

Lastly, it is agreed that the final resort to conciliation contemplated in article 11 will only be applicable in cases where the substance of the dispute has not been examined. In all cases, however, in which a final decision has been taken upon the substance of the dispute, whether by the Council, by the Court or by arbitrators, article 11 is inapplicable.

Only one more stone was wanting to complete the structure which we had attempted to build. The Protocol condemns wars of aggression and offers all parties in all cases a pacific procedure involving a final and binding decision which is enforced by sanctions. With a view to the immediate and infallible application of the sanctions we had to decide which was the State originally responsible for a war of aggression, — in other terms, to define and determine the aggressor in each case.

This definition is an easy matter and we found it without difficulty.

It is sufficient to say that any State is the aggressor which resorts to war in violation of the engagements contracted by it either under the Covenant or under the Protocol. It is however extremely difficult to apply this definition in each particular case. Once war has broken out, once hostilities have commenced, the question of determining which side began them is a question of fact concerning which opinions may differ.

The first idea which occurred to the members of the Committee was to make it the duty of the Council to determine who was the aggressor in each case, but it was soon realised that intervention by the Council would be attended by many disadvantages, whether that body were given the right to take decision unanimously or by a majority.

The Committee accordingly attempted to devise an automatic procedure which would obviate any discussion whatever and would make it possible to determine forthwith by a combination

of various external criteria which was the State originally responsible for a war of aggression.

We believe that we have found a solution by means of a system of "presumption."

Our proposal is that you should say that there is a presumption, which shall hold good until the contrary has been established by a unanimous decision of the Council and which arises in a series of hypotheses the importance of which I recommend to your most particular attention.

These hypotheses are three. The first is that of a State which resorts to war after refusing arbitration or refusing to submit to the decision by which the dispute was finally settled. The next hypothesis is that of a State which resorts to war in violation of the provisional measures enjoined by the Council during proceedings for a pacific settlement. The third and last hypothesis is that of a State resorting to war in disregard of a decision recognising that the question in dispute is exclusively within the domestic jurisdiction of the other party, or by failure to employ the last chance of conciliation offered in article 11 of the Covenant.

It will be noticed that there is an essential difference between the first two and the third hypotheses. Whereas in the first two a presumption of aggression exists if the state of war is accompanied merely by a single condition, in the third hypothesis two conditions are required, first, that a State has disobeyed a decision which recognises that the question is solely within the domestic jurisdiction of another State and, secondly, wilful failure to take advantage of the special provision contained in article 11 of the Covenant.

This difference is due to the consideration that in the matter of defining aggression it is necessary to render article 15, paragraph 8 of the Covenant more flexible by showing a State which has been non-suited that it still has in article 11 of the Covenant a last resource for obtaining conciliation. We had therefore to find some means of reconciling the article in the Protocol which contemplates the application of article 15,

paragraph 8, of the Covenant with that which I am now analysing in the matter of aggression.

We considered that it was only just that a State, which was prevented under the terms of article 15, paragraph 8, of the Covenant from having the substance of a dispute discussed should be given a last chance of conciliation before it was abandoned to itself and so driven to make war on the country which had reserved the question as being within its domestic jurisdiction.

I must ask your careful attention to the intricate machinery which I have just described. Should both conditions exist in a single case, there is presumption of aggression. Should both conditions not exist in a single case, war is still forbidden—this rule is by no means abolished. A war undertaken by a country which, having exhausted all available remedies, in the last resort infringes a decision by which the question in dispute was recognised as falling exclusively within the domestic jurisdiction of its adversary —such a war is still forbidden ; if undertaken, it will bring into play the sanctions which I mentioned a few moments ago. The only difference is that when the two conditions regarding an act of aggression exist in a single case, there is presumption of aggression. If they do not both exist there is no such presumption and the aggressor must be determined in accordance with a procedure which will be valid for all cases in which there is no presumption.

What is this procedure ? In cases in which there is no presumption of aggression, the duty of determining the aggressor has to be left to the Council.

If the Council decides unanimously as to the aggressor, there is no difficulty. If the Council is not unanimous, the Protocol, in order to obviate the possibility of a deadlock, proposes that the Council should be bound to enjoin an armistice upon the belligerents and that it should fix the conditions of the armistice by a two-thirds majority, not including the votes of the parties concerned—according to the general rule contained in article 15 of the Covenant and referred to at the end of article 16.

The State which violated the armistice or rejected the conditions would automatically be treated as the aggressor.

The sanctions contained in article 16 will immediately become operative once aggression has been established either by presumption or by a unanimous decision of the Council, or as the result of rejection or violation of the armistice. The only action to be taken by the Council—this is a duty which is enjoined upon the Council and which it cannot conceivably fail to discharge—is that of reminding the signatory States that it is their duty forthwith to apply against the State thus declared the aggressor the sanctions contained in article 16 of the Covenant, as interpreted by the special provisions of the Protocol.

In order to leave no room for doubt it has been formally laid down that States which, at the invitation of the Council an din execution of their international obligations, apply sanctions against the aggressor should, if and in so far as they are authorised to use force, be regarded as belligerents and should benefit by the prerogatives attaching to their in status as such.

I have given you a brief survey of the Committee's work. It provides, we are convinced, a complete system which will henceforth guarantee the maintenance of peace to those States which sign the Protocol.

An important advantage inherent in this system is, firstly, that States who might be tempted to have resort to war will fear the sanctions which will be immediately applied against them. This deterrent effect of the Protocol, which will, I am sure, prove most efficacious in practice, will in itself prevent very many wars. And even if that were not the case, if a State possessed by the evil spirit of war did not fear the sanctions but had recourse to force, its action would be considered an international crime and would immediately be exposed to the collective punishment of the States signatory to the Protocol.

I repeat that those States which sign the Protocol may henceforth be considered as holding a guarantee of peace. War will be either averted or suppressed. A State which is threatened with aggression will in the great majority of cases be safeguarded. And

if war were unhappily declared against it, it would have the certainty, as the statement on the work of the Third Committee will shortly show you, that it would be surrounded by every possible security that could induce its adversary to come to terms at the earliest possible moment.

Nevertheless, although our system thus affords an immediate guarantee of peace, it does not yet fulfil every requirement as regards justice. It marks a first step in that direction. It certainly checks wars, it strives by indirect means to prevent them, but it cannot claim to be certain of success in preventing all wars.

The essential reason for this powerlessness, which we could do nothing to remedy, is that for a long time to come there will continue to exist general causes of war not arising out of questions of law. These causes will continue to exist, because there are certain disputes which cannot yet be settled by the application of rules of law. There will be no infallible safeguard against an outbreak of war until the law has been further developed, until rules have been laid down to cover every situation which may arise, until we can be sure that all disputes can be settled not only in a peaceful but also in a juridical manner.

The League of Nations is now entering upon a new phase. It has given the nations a guarantee of peace ; it must now give them justice.

In dealing with the difficulties which we had to surmount at the close of our work we were all, lawyers and statesmen alike, fully awake to the dangers to which peace was exposed as a result of the deficiencies of international law, and we realise that, if our work is to be complete, if we desire that it should give the nations justice as well as peace, we must soon endeavour to determine how we can remedy these deficiencies in the law.

Now that our work has come to an end, we realise that, if we wish to keep peace ever with us, we must not expect her to live long alone. There must dwell beside her her beloved sister — justice.

Dr. BENES,
Minister for Foreign Affairs and first delegate of Czechoslovakia, Rapporteur of the Third Committee.

Mr. President, ladies and gentlemen — M. Politis, Rapporteur of the First Committee has explained to the Assembly with his usual clearness and lucidity and with admirable eloquence the whole of the machinery of the system of Arbitration embodied in our Protocol. My task consists in drawing your attention to the salient characteristics of the articles of the Protocol connected with the two main ideas which underline it ; security and the reduction of armaments.

I do not intend to repeat before this Assembly all I said at the Third Committee nor what I have written in the report before you. Those commentaries are extremely important. They throw light on and complete the text of the articles of the Protocol and they should be read and studied thoroughly, because, they indicate the spirit in which the Protocol is to be applied.

I will give you instead a short summary of what we have done in the Third Committee and, without entering into details, I will show you what are the essential problems which we have studied and on which we have taken our decisions.

The First Committee has instituted a system of peaceful settlement of disputes and has devised the methods and machinery to be used ; it has specially devoted its time to finding a means of determining clearly and quickly which State is the aggressor.

In other words, the first part of the Protocol is intended to obviate the possibility of a conflict.

It works out the procedure to be followed in dealing with every dispute as it arises. Either it effects a peaceful settlement or, the conflict breaking out, it has to indicate the guilty party and decide which State is the aggressor.

The second part of the Protocol is a logical continuation of this constructive work ; as soon as a conflict has broken out, and when once it is shown which State is the aggressor, the machinery of

sanctions has to be set in motion. Accordingly, the second part of the Protocol deals with the working of the system of security and sanctions.

In this system of security and sanctions we have considered a certain number of questions of which I should like to give you a brief survey.

As soon as it has been decided which State is the aggressor, the system of sanctions becomes operative and has to be set in motion. The three following questions then immediately arise :

1) How is the system of sanctions to be set in motion ?

2) Of what nature are the sanctions that become operative ?

3) What is the scope of these sanctions ?

The replies to these three questions comprise the outstanding features of the whole system embodied in the Protocol and manifestly affect the vital problems in the policy of any Member of the League.

The setting in motion of the system of sanctions is closely connected with the defin'tion and designation of the aggressor. When once the Council has decided which State is the aggressor, according to the system which M. Politis explained to you, and which introduces into this machinery an automatic element leaving very little room for doubt, it calls upon the States to apply sanctions forthwith against the aggressor.

There then arises the second question as to the nature of these sanctions. The Protocol says quite clearly in article 11 that, as soon as the Council has called upon the signatory States to apply sanctions, the obligations of all kinds they incur under article 16, sub-paragraphs 1 and 2 immediately become operative in order that such sanctions may forthwith be employed against the aggressor. This means that economic and financial sanctions, as well as military, naval and air sanctions, must be applied if the occasion is considered to demand them.

If we compare the Protocol with the Covenant we see that in the Protocol the problem of sanctions has been solved in a very clear, precise and decisive manner.

I will not go into the details which I made sufficiently clear in the discussions in the Committee. I merely wish to indicate here the principle in its main outline without in the least modifying what I said in the commentary contained in my report.

I consider that the fact that these points are so clearly defined is a sure sign of great progress and that if the rest of the system in our Protocol works as smoothly as we hope, we may consider the system of sanctions applied in this manner to be a really adequate one.

But there is one last question relating to sanctions ; how far is each State obliged to apply sanctions ? What forces should it place at the League's disposal to defend a State attacked ?

I think that article 11 of the Protocol states this sufficiently clearly and explicitly : " These obligations shall be interpreted as obliging each of the Signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations and in resistance to any act of aggression in the degree which its geographical position and its particular situation as regards armaments allow ".

We therefore have a standard fixed for us : " loyally and effectively ". This standard may not be a mathematically exact one but it is all the same sufficiently definite to serve as a guarantee.

I am well aware that doubts might arise on this point. But do you not think, gentlemen, that when the system of arbitration is set in motion and acquires prestige, and when the signatory States decide to take action against the aggressor the force of international public opinion and their own moral sense, to say nothing of their own interests in putting an end as soon as possible to a dangerous dispute, will induce them to meet their obligations loyally and effectively ? I personally am prepared to believe that they will do so.

I therefore consider the replies to these three disturbing questions concerning the application of sanctions to be satisfactory, provided, as I have already said that, the rest of the system works properly and is applied in good faith.

In my report I have explained the differences between the system of sanctions embodied in the Protocol and the system embodied in the Covenant. I will not return to that point, but it must be borne in mind, because we have made considerable progress.

I now pass to the second fundamental question dealt with in the Protocol.

In the system of security which we have developed in the Protocol, the signatory States are, concerned with the aggressor on the one hand and with the party attacked on the other. The system of sanctions of all kinds is applied against the aggressor ; but we have not wished to establish a system of punishment alone, we have also wished to provide a definite scheme of assistance to the victim of the attack.

We have completed the system of sanctions against the aggressor by a system of economic and financial assistance to the State attacked, which would clearly render the system of sanctions doubly effective. The Protocol gives a sufficient account of the details of this assistance. I thind I may confine myself to drawing your attention to this question, which in specific cases may have a decisive influence on the course of events.

The text of the passage in article 11 of the Protocol dealing with the questions of the assistance to be given to the State attacked sufficiently demonstrates the true significance of our proposal. It reads as follows :

" In accordance with paragraph 3 of article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State. "

The third important point in our system consists, on the one hand, in the preparation and the application of the sanctions and,

on the other, in the preparation of economic and financial assistance. The constant inter-relation between these two aspects of security, is one of the most essential characteristics of the Protocol.

In view of the complexity of the conditions in which the system of sanctions and the system of economic and financial assistance might have to be applied, the necessary preparations should be made in advance. Accordingly, the Council through its competent organs will draw up, first, plans of action for the application of the economic and financial sanctions against an aggressor State and, secondly, plans of economic and financial co-operation between a State attacked and the different States assisting it.

In addition to these purely economic and financial preparations, we have provided for measures of a military character without at the same time transforming our system into a military machine. Hence in article 13 we have stipulated that " the Council shall be entitled to receive undertakings from States, determining in advance the military, naval and air forces which they would be able to bring into action immediately, to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol. "

In order to make the system complete, we have embodied in the Protocol provisions concerning special treaties as a means of carrying out obligations resulting from the Covenant and as an addition to the general guarantees provided for in the Protocol. From this point of view separate treaties are embodied in our system as a species of military preparation similar to the economic and financial preparations provided for in the Protocol.

As you will observe, the scheme of sanctions constitutes a complete and comprehensive system of security ; it unquestionably offers guarantees to that end, which are, I repeat, fully sufficient in themselves, if the rest of the system works smoothly and regularly.

As I desire to show the Assembly the working of the system laid down in the Protocol I will not enter into questions which we have already debated time and again. I will not revert to the

principle of the inter-dependence of arbitration, security and disarmament, as this has already been definitely approved and accepted by the Assembly. Nor will I refer again to the controversy on the subject of special treaties. The system of arbitration will remedy their chief defects, and as they will be incorporated in the system of obligations arising out of the Protocol, they will become servants of the good cause. I think therefore that we need never again discuss their legitimacy or expediency.

We have still to consider a fourth group of questions. The definition and determination of the aggressor is so difficult a problem that special methods have had to be evolved in order to facilitate the fixing of responsibility for aggression. Three special methods have been taken into consideration, namely :

1. The establishment of demilitarised zones, the violation of which can readily be determined and will therefore be regarded as equivalent to an act of aggression.

2. The adoption by the Council of so-called provisional measures such as orders to withdraw troops, to declare an armistice, to stop movements of troops, and so on. In this way it will be relatively easy for the Council to determine the aggressor.

3. The provision of means for keeping a watch on preparations for war ; certain provisions of the Protocol are aimed not only at definite acts of aggression, but also at threats of aggression. In such cases the Council can bring into play the system of provisional measures accompanied by enquiries and investigations, and we shall thereby obtain sufficient security against States guilty of bad faith.

In addition to these three questions concerning the aggressor, there is a fourth, namely, the punishment of the aggressor. The penalties provided for in the Protocol do not include annexation of the aggressor's territory or curtailment of his political independence. He will be required to make economic and financial reparation up to the extreme limit of his capacity, not excluding measures of all kinds which will provide guarantees against further aggression.

I have still to deal with the last fundamental question in the Protocol : the reduction of armaments.

In view of the close inter-connection between the three great problems before us—the pacific settlement of disputes, sanctions against disturbers of the peace of the world, and the reduction of armaments, the Protocol itself provides for the summoning by the Council of a General Conference on the Reduction of Armaments and for the preparation of the work of this Conference. Moreover, the clauses regarding arbitration and sanctions do not come into force unless a plan for the reduction and limitation of armaments is adopted by that Conference.

Moreover, in order to preserve the connection between these great problems, the Protocol is to become null and void if the plan adopted by the Conference is not carried out. This point will have to be determined by the Council according to conditions laid down by the Conference itself. We are all agreed that it would have been preferable to bring the system into operation more rapidly, but for a number of political reasons it is impossible to do so for the moment.

The last paragraph of article 21 provides for the contingency of the Protocol partially lapsing after it has been put into force.

Should the plan adopted by the Conference be regarded as having been put into effect, and should any State fail to carry it out in so far as it is concerned, that State would not benefit by the provisions of the Protocol.

But just as we have established a special parallel between the principle of sanctions against the aggressor on the one hand and the principle of affording assistance to the victim of aggression on the other, we endeavoured, in accordance with the principle of the progressive reduction of armements, to mark out a kind of parallel in drawing up the plan of disarmament, that is to say, to indicate briefly the conditions under which the reduction of armaments would be carried out. The reduction of armaments will be brought about principally through the general security resulting from the reduction of the danger of war—a consequence of the system of the compulsory pacific settlement of all disputes.

It will also brought about by the fact that the State attacked can rely upon receiving economic and financial aid from all the signatory States.

Nevertheless, in the case of States, which, owing to their geographical situation, are particularly exposed to acts of aggression, the dangers of a sudden attack are so great that they will not be able to base their scheme for the reduction of armaments solely upon these two political and economic factors.

Consequently, as has been frequently pointed out, a number of States will desire, before the Conference is summoned, to know the extent of the military assistance on which they can rely, if they are to lay before the Conference proposals for the reduction of armaments on any considerable scale. For this reason the Governments may possibly have to enter into negotiations among themselves and with the Council regarding the reduction of armaments before the Conference is held.

The Council will have to take all these points into account, as well as a number of other factors, in drawing the general programme of the Conference.

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Such are the essential principles of the second part of the Protocol to which your attention is specially drawn in the resolution at the end of the report of the First and Third Committees. M. Politis and I submit this resolution for your acceptance ; if it is adopted it will fiftly crown the work of the fifth Assembly.

Moreover, in view of the necessary preparations for the Conference on the Reduction of Armaments having been entrusted to the Council, I venture to submit for your acceptance the second resolution, which will shortly be read to you and which indicates a number of important questions which should be placed on the programme of the future Conference.

In conclusion, gentlemen, let me say this. The fifth Assembly has taken in hand a great work, fraught with incalculable consequences and well-nigh limitless hopes. It has at a stroke assumed

the task of rendering war absolutely impossible. In order to attain this end, it was necessary to create a system of pacific settlement for all the disputes which can possibly arise. In other words, we have endeavoured to create a system of arbitration such that no international dispute, whether juridical or political, can possibly lie outside its compass.

But the scheme must necessarily be complete in every part, and it must be applicable to every type of question. A single loophole, a single door of escape, and the whole structure is threatened with ruin. It was above all essential that the term " aggression " should be so clearly defined that there could be no possible ground for hesitation if the Council were called upon to take a decision.

For the same reasons we have endeavoured to make good the deficiencies of the Covenant and to define the sanctions so precisely as to allow no possiblity of evasion, and to give a sense of definite and absolute security.

It is hard for us to-day to say positively whether the system we have established is really as water-tight or complete as it should be. Already we hear critics expressing their doubts. If the Protocol once comes into force we shall soon learn by practical experience whether we have succeeded.

I venture to say, however, even at this stage, that if it is dangerous to trust solely to the good faith of others, it would be equally dangerous entirely to exclude moral considerations and good faith from our system. In any case, the Czechoslovak Government is prepared to sign and ratify the draft Protocol at once.

Lastly, the Conference on the Reduction of Armaments is indissolubly bound up with the whole system. There can be no arbitration or security without disarmament and there can be no disarmament without arbitration and security.

In terminating my report, I will venture to point to three facts which are both interesting and important.

Like many of my colleagues, I have taken part from the outset in the work of the League of Nations at Geneva, and I can assure you that never before has the Assembly been animated by such

sentiments as it has this year. Never before has the spirit of international solidarity and true humanity permeated our work so profoundly as during the last five weeks. The heavy work of the two Committees has called for the utmost efforts of every one of us, and if I were to do justice to all our colleagues who have untiringly laboured with us on this task I should never come to an end.

I am sure you will pardon me, however, if, as the representative of a small country, I venture to refer more particularly to the invaluable work done by the delegates of France, the British Empire, Italy and Japan. I say this because I desire to recall now, when we have completed our work, what was said in this Assembly during the memorable discussion of the first week, that the peace of the world largely depends on the situation of the small nations, and that the small nations will not be safe until the Great Powers can ensure the operation of a system of compulsory arbitration and sanctions. We must offer the small nations our heartfelt thanks and congratulations for the courage they have shown in discussing problems which are of so critical a character both for them and for us all, and which have vexed every nation in the world for centuries.

I now come to the second important fact. In the discussions of the last five weeks we have given voice to ideas which, once launched, will make their way across the world with the irresistible force of an avalanche. We must, think, frankly recognise the position ; the idea of the peaceful settlement of disputes, with all the consequences which we have deduced from it, has made such progress in the last five weeks that it can never again be lost sight of.

The third and last fact, and the most important of all, for us, is this, that in the work of the fifth Assembly we have definitely linked together three ideas : arbitration, security and disarmament. We have built these up into a system which we have embodied in a Protocol. We hope that the Protocol will be ratified and will come into force. But it would be a great mistake to suppose that the whole system would be reduced to naught if for any reason the Protocol were not applied.

The only result would be that the difficulties which would then arise would be greater than those which faced us before we began.

Then again, we should inevitably find ourselves confronted again next year, at the sixth Assembly, by the same problems as those which we had to face this year. Just as this year we had to settle the question of the Treaty of Mutual Assistance, so next year, should have to settle that of the Protocol. The Third Committee would inevitably raise once more the question of article 8 of the Covenant, and we should have to begin all over again the work which we have been engaged upon this year—possibly in circumstances less favourable for us all than to-day.

We are therefore, I think, in spite of everything, nearer the goal. Our work it is true, is not perfect, but it can be improved by degrees. The Protocol deserves to be signed and ratified and to be put into force, for it embodies a number of just principles which ought to prevail.

I firmly hope and believe that they will prevail.

JONKHEER J. LOUDON,
Former Minister for Foreign Affairs, delegate of the Netherlands.

Mr. President, ladies and gentlemen — Notwithstanding my sincere admiration for him, I mounted this platform barely a year ago to oppose Dr. Benes, the distinguished Rapporteur, on the Draft Treaty of Mutual Assistance. I did not then attempt to conceal my view that that Treaty was unacceptable. And why ? Because it was devised solely with a view to security, while the reduction of armaments was relegated to the background and seemed to be a mere shadow. In short, the Treaty, ignoring the general guarantee contemplated in the Covenant, established a system of separate agreements which were more especially dangerous since they were to come into operation automatically and thereby constituted a serious menace to peace.

My task to-day is a very different one. The well-merited reception which the Assembly has just given the rapporteurs shows how highly it appreciates the work which two of your Committees have achieved under the inspiration of the great new idea which the Prime Minister of Great Britain and France jointly submitted to you, that the reduction of armaments could be rendered feasible by general arbitration guaranteed in its turn by common action upon the part of all Members of the League.

Your Third Committee soon realised that the Treaty of Mutual Assistance would not answer this purpose and that there was no no longer any real justification for its existence.

Security could no longer be sought in the preparation of a treaty of this kind, for we were, confronted with a plan or system which, so far from separating the three main features of the Covenant, — Arbitration, Security and Disarmament, — combined them in a single scheme. Security was to take the form of sanctions against the aggressor State, the latter being defined as that State which has resort to war by refusing to submit its dispute to pacific settlement, or refusing to accept an award ; while disarmament, which in the absence of any guarantee of security against aggression, had hitherto been only too likely to remain a dead letter, now become practicable except in so far as armaments may still be considered necessary in order to ensure the application of the sanctions involved in common action.

This constitutes a very considerable, nay, an immense advance upon last year, and it is due to the growth of the idea that compulsory pacific settlements are a *sine qua non* for the prevention of wars, and that the observance of this condition is practicable in international relations.

This principle, which was the ruling principle at the Hague Conferences of 1899 and 1907, has also been advocated since then. In 1917 Pope Benedict XV recommended that in future a State which rejected arbitration should be considered as an aggressor.

In the discussions which took place on the draft Treaty of Mutual Assistance, Spain, through her representative, Admiral de Magaz, expressed similar views, whil equite recently our American friends,

General Bliss, Mr. Shotwell and others submitted to the League of Nations a valuable scheme based on the same principle.

It is, however, solely due to the memorable agreement reached between Mr. Ramsay MacDonald and M. Herriot that we now have before us a draft setting forth in detail a great scheme of which a Henri IV, an Emeric Crucé or an Abbé de St. Pierre — all three Frenchmen — might well have been proud, and which, inspired by our inviolable Covenant enshrines the threefold article of own immortal creed — Arbitration, Security, Disarmament.

M. Politis gave a masterly definition of this threefold article of faith in his report, in which he says : " The object of the Protocol is to facilitate the reduction and limitation of armaments provided for in article 8 of the Covenant of the League of Nations, by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war. "

The term " aggressor State " was not defined by the Covenant, and a definition is therefore provided by the Protocol. Generally speaking, the aggressor is the State which has resort to war in violation of the Covenant or of the Protocol, refusing either to submit its dispute to the procedure of pacific settlement or to accept either a judicial or arbitral decision or a unanimous recommendation of the Council.

The masterly definition contained in article 10 of the Protocol regarding the presumption of aggression after hostilities have broken out redounds greatly to the credit of the lawyers who drafted it and — I think I may add without indiscretion — to the credit of our colleague who, though no lawyer, showed such a wonderful sense of law that the title of jurist was conferred upon him by his colleagues on the Sub-Committee.

The basis underlying the system of the Protocol is, as M. Politis has said, the compulsory pacific settlement of disputes. There will be no more wars of aggression and no more legalised wars in the event, contemplated in article 15 of the Covenant, of the Council failing to settle the dispute. Defensive war alone is allowed

and, as M. Politis rightly pointed out, a State having resort to this legitimate form of war would be, so to speak, the mandatory and organ of the community.

The Protocol is like a buttress to the Covenant. It supplements it, particularly in regard to conciliatory methods of procedure. It supplements the provision in article 12 of the Covenant for recourse to judicial or arbitral settlement by defining something which is, to borrow a term of M. van Karnebeek's, the keystone of the whole edifice, namely, the conciliatory functions of the Council.

If the Council's efforts at conciliation fail in the first instance, it can go further and exercise its authority, first, by recommending arbitration, and secondly, if the parties refuse to accept it, by imposing on them its own decision, provided that decision is unanimous, or, if it is not unanimous, by making the parties once more submit to arbitration.

Whatever happens, a solution will be found and, if the parties seek to evade it, there will be appropriate sanctions.

These sanctions are defined in principle by article 12 of the Protocol, which confirms article 16 of the Covenant. The wording of article 12 makes it quite clear that henceforth the measure of economic and financial sanctions necessitated by the circumstances will become operative immediately the Council has pronounced a formal order.

It is clear that the fourth provision of the Assembly resolution of October 4th, 1921, which left the States Members of the League of Nations free to judge whether or no a breach of the Covenant had been committed, could not be retained under the new system, which defines the aggressor State so clearly that the Council can have no difficulty in determining aggression and so denouncing it to the States Members with a view to the application of the sanctions.

As regards military measures, the Protocol defines the Covenant and prescribes that the signatories must co-operate therein loyally and effectively in the degree which their geographical position and their particular situation as regards armaments

allow. The part to be borne by each State in the repression by force of arms of an act of aggression committed in violation of the Covenant is to be determined in agreement with the Council, and there is no stipulation as to the extent of its participation, of which each State will remain the sole judge. As the report before you says, the State remains in control of its armed forces, and itself, and not the Council, directs them, although the Council is called upon to give the States its opinion in regard to the best method of fulfilling the different obligations arising when a case of aggression is notified.

As regards the partial agreements mentioned in the draft Treaty of Mutual Assistance, the Protocol marks another very real improvement which I am specially glad to note. These agreements, duly registered and published, and, therefore, in no case secret, will henceforth only become operative by order of the Council.

The provision for automatic operation, therefore, which excited such lively criticism, is eliminated. These agreements, while they last, will be of an entirely novel character. It is perfectly legitimate that they should serve to ensure the rapid application of measures of coercion. But it is also conceivable that one of the signatories of these agreements might be declared the aggressor, and its allies would be obliged to take up arms against it on behalf of the community.

The desire to reduce or at any rate to limit armaments is fully evinced in the Protocol by the decision to convene an International Conference for this purpose on June 15th next, to which all States non-members of the League will also be invited.

The Disarmament Conference will continue the work of the fifth Assembly, and their joint achievement will constitute, so to speak, a second edition of the Covenant, which will be a great improvement on the first.

The Protocol will be submitted to our Governments forthwith. The fact that we vote for the resolution does not bind our Governments, although, as the text says, we recommend

the acceptance of the Protocol to their most earnest attention. This point was particularly emphasised yesterday at the last meeting of the First Committee.

The Netherlands Delegation will vote in favour of this resolution, but not without a certain degree of hesitation, now that articles 10 and 11 of the Protocol, formerly articles 5 and 6, have been modified in consequence of the recent discussions

It is possible that various questions will have to be settled and that there will be delays before all the Governments have signed. It is also possible — as experience has shown in the past — that the amendments to the Covenant involved in the Protocol will not be ratified as promptly as we desire.

We must be ready for disappointment. We must prepare the world for them and, above all, we must not let the world believe that the ideal to which we aspire is attained. We are still only in the first stage.

In the question of principle, however, what has been done cannot be undone. The main points that have been carried will remain, and, thanks to the motion of the French and British Governments, this Fifth Assembly has been marked by the most notable achievement that the nations of the world have ever accomplished for the prevention of future war.

All of us here have contributed to this result in a sincere spirit of conciliation and good will, striking proof of which has been furnished by the discussions of the last few days.

But at this moment ladies and gentlemen, let us not forget the valiant champions of peace who in previous years have assiduously laboured to solve the problem that confronts us. I refer in particular to Lord Robert Cecil, who I, am sure, would be the first to rejoice with us over the work which it has been given to us to accomplish on a new plan.

I would say in conclusion, let us not forget that, thanks to our united efforts, we have inaugurated the beginning of a great work. It rests with our Governments, and with us by the advice which we give them, to make it a work which mankind can never forget or disregard.

M. ARISTIDE BRIAND,
Delegate of France.

Ladies and gentlemen—I am here on behalf of the French Delegation and with the full assent of my Government to say, in response to the appeal of your Committees : " France adheres to the Protocol; France is prepared to sign it. "

This message should have come from other lips than mine, from one who is better fitted to speak here than I,—the head of the French delegation, my friend, M. Léon Bourgeois, who has devoted his life to the cause of peace.

His health does not permit him to be here. It is one of life's ironies that the man who has ploughed, harrowed and sown the field does not always reap the harvest, and it is an injustice of this kind which has brought me to this platform in place of M. Léon Bourgeois. You will not think it strange, therefore, that my thoughts should turn to him at this moment and that I should express to him my gratitude and that of the members of the French delegation.

Ladies and gentlemen, we may truly say that the Fifth Assembly of the League of Nations opened in an troubled atmosphere. Those who were still new to the idea that wars can cease were doubtful, nay, sceptical, and those who had faith in the League were filled with anxiety and questioned whether the League would ever succeed in the heavy task it had undertaken.

I frankly confess that I myself shared that anxiety.

But now, when we have reached the goal, we may well ask ourselves whether this Assembly was not over, bold in expecting-in such a short space of time, to adopt such complex resolutions, to pass an instrument of such importance as that which has been so ably and brilliantly expounded by the Rapporteurs of our Committees.

When we read this Protocol, which is to place in the service of peace a complete mechanism for conciliation, mediation and arbitration, which is to undertake the delicate task of finding a

criterion by which to discover those guilty of aggression, which is to build up a scheme of sanctions for the maintenance of world peace ; when we remember that your Committees have had scarcely a month in which to solve these problems, we cannot but feel the most intense admi ation for their members.

They have accomplished an almost superhuman task and I am sure I am voicing your sentiments when I express the deep gratitude we owe hem.

Think, gentlemen, if we had fail d in our task, what a di a ter it would have been, what a blow would have been dealt at the moral authority of the League, what despair would have seized upon the peoples.

When fifty-five nations are gathered together in an Assembly such as this, attempting wi h a temerity inspired by noble and generous ideals to solve the formidable p oblem of peace, and recording on their agenda their intention to seek the means of solving this problem, the " man in the street ", as our friends in Great Britain call him, cannot conceive that the nations so assembled could fail. In the trustfulness and candour of his mind he could not admit such a possibility, and, if his hopes had been deceived, conceive the effect upon his mind and what he must inevitably be led to think. He could not but say to himself : " Then war is inevitable ; it is a disaster which we cannot avert ", and he would be driven to wonder in his inmost mind wheth r, in face of such a complete confession of bankruptcy on the part of his rulers, he should not turn to the peoples themselves for the key to the prob em.

When " the man in the street " learns this evening that the nations assembled here have publicly and solemnly adhered to the Protocol submitted to them, that they have definitely turned their faces towards peace, that they have at last declared war on war and have shewn what methods they have decided to employ to close the road to war, there will arise a movement of enthusiasm which will sweep away scepticism and criticism alike.

War has driven its roots deep and far into the hearts of the nations. It is hard for us, even if our outlook is pacifist, to habi-

tuate ourselves to the though that war can ever be destroyed. War is an old enemy whom we have grown accustomed to fight and our minds cannot at once grasp the fact that it is no longer there.

There are some who still do not admit that we are on the eve of a lasting peace. They have mental reservations that prevent them sharing our sentiments or participating in our work. But it matters little. The peace movement has gone foward. Follow its evolution and you will realise how it has grown.

It was born under a dark cloud. At that time, its protagonists, were talked of with pitying contempt. They were shown thinly veiled disrespect ; they were called Utopians, dreamers. Compliments were showed upon them, but such compliments as were scarce calculated to encourage them.

Still the idea pressed forward, and at last, behold ! it won its way to the front rank of the movements of the day. It took definite shape, and then encountered enemies. A campaign was set on foot against it. Criticism became more searching, criticism accompanied sometimes by insults, almost always by sneers.

To-day criticism still persists, but it is criticism of another kind. Irony, mere, scoffing, have disappeared. The movement has taken definite shape, it has become a solid reality, it is no longer in the clouds. It has the goodwill of many of the nations, it is strong and can defend itself.

To-morrow when your resolution is unanimously voted by the fifty-five nations represented here you will see the tide of enthusiasm surge high in every land. and the opposition, hitherto so strong, will quail before it. Then you will realise the strength that you yourselves have given to the movement. Henceforth it will pursue its way, upheld by all that is best in the nations, whose one desire is to prevent for ever the return of the horrors of the war they have endured.

Ladies and gentlemen, standing here at this moment, I feel perhaps the greatest emotion I have ever felt in the course of a long political career. My mind goes back to one of the most terrible moments of the war from which we have even yet scarcely emerged.

At that time I bore the responsibility of office in a country whose soil was the battlefield of the greatest war which has ever ravaged mankind. In the tragic hours of Verdun, at the crisis of disaster, who could have thought of peace ? Who would ever have dreamt that but a few years later an Assembly such as this would meet and declare that the hour of peace has sounded, that peace has been organised ?

Yet I, after having lived through such hours as these, after having known the tortures of suspense, come before you now to say in the name of France that she wishes to banish for ever the spectre of war ! I come here to reveal my country as she is, ever true to her traditions of international collaboration, which earned for her in those tragic hours the reward of winning to her side the noblest nations of the world ! You will understand the intense joy, the deep yet tender emotion I feel at this moment after certain campaigns of these past years.

Attempts have been made to spread misleading, treacherous propaganda, depicting France as a country that preys upon its fellows, a militarist nation whose strength lies in its bayonets, which was striving to impose a kind of hegemony upon the world, and to realise some hateful imperialistic dream.

To-day, after the debates in this Assembly, whose delegates have given of the best that is in their hearts and minds in order to reach the agreements now before you, I have the right to stand here and say " France, the true France, is here ! "

You see her to-day as she has always been, as she has never ceased to be, as she will always be. In the pages of history you often find her helmeted and armed. Why ? Because her geographical position designed her to be the sport of war. She has been a soldier ; she has fought the good fight. In this last war it was not merely her soil and her liberty that she defended ; she fought—and you know it full well—in the defence of traditional principles and the principles not France alone but of humanity and the world. France the daughter of the Revolution, knew that not merely her own existence, but the whole future of international life was at stake.

These are the ideas that she cherishes.

Of course, she defended her national soil, of course, she urged her patriotism to the utmost limit. And if she has remained armed since, it is for the very justifiable reason that, having experienced the horrors of invasion and the blood-stained barbarism of war twice in less than fifty years, she is resolved that it shall never occur again.

Yet when the League of Nations appealed to her to organise a system of peace and security, she did not hesitate for a moment. She responded to your appeal, and you have never once found her unwilling to work with you for the establishment of this pact of mutual assistance which will enable her to throw off the grievous burden of armaments which weighs so heavily upon her.

France desirous to remain hedged with bayonets ? France a menace to peace and a danger to the human race ? Ladies and gentlemen, that is the bitterest of insults, the most unjust of criticisms. As soon as it was possible for her to reduce her armaments, she did so. She has been in the forefront of movements such as those we have seen in this Assembly. She has reduced the burden of her military service by fifty per cent, she has reduced her effectives by twenty-five per cent and when at Washington the call came for naval disarmament, she at once responded to that call. She reduced her navy by nearly fifty per cent.

When, at the coming Disarmament Conference, you have shown her that every precaution has been taken and every loophole secured, that by the application of the system laid down in the Protocol her security is made certain, you will find her collaborate with the members of that Conference just as she has helped in the work of your Committees from the beginning of this Assembly. It was only natural that she should be anxious for her security. When the French Prime Minister came here with the British Prime Minister and explained our policy, you understood his position, and when you decided to combine into one the three terms of the problem—arbitration, security, disarmament—you

had already found the most logical, the most correct solution of the problem.

Let me repeat — the Protocol submitted to us, if applied both in the spirit and the letter, fully satisfies us. Our one regret is that its executive clauses cannot all be applied at once.

Whatever sceptics may say hereafter, it does afford a real protection against war. The provisions in it for conciliations and arbitration constitute an effective guarantee, for if, as is unhappily too true, war breaks out easily, it may be no less easily averted.

How does war break out ? Some incident occurs which stirs the national pride of two different countries. Public opinion, carried away by passion, rums riot. The two countries are sundered ; negotiations are broken off ; war is declared.

If, at that moment, they could be brought to negotiate, if intermediaries could undertake to bring them together, if a movement of conciliation could be set on foot, if time could be gained for reflection by arbitration or mediation, and the people of both countries could be rescued from the murk of mystic obscurity in which war is born, war would be averted.

Turn over the pages of history, and you will find that, whenever there has been contact, negotiation, attempt at conciliation or arbitration as soon as disputes have appeared on the political horizon, war has always been averted. Whenever war has broken out, one people has rushed headling upon another as if driven without time for reflection by some mystic force that deprives it of reason.

The provisions of the Protocol are, therefore, such as to reassure us. They are accompanied by sanctions and the combination of these two factors in a single system constitutes, in our view, an almost insuperable barrier to war.

The last war has shown us the true nature of disasters of this kind. When it broke out, we turned our thoughts towards the past. We naturally believed that it would be like previous wars, and would have the same results. How mistaken we were ! And if to-morrow the horror of war were once more to break upon us, it would be as different from the last war as that was from previous wars.

What is the result of wars like this ? Some nations emerge victorious, others vanquished—but all alike are stricken and impoverished. This is what war has become to-day — the ruin of the world and the destruction of the nations.

I ask you — now that you see the measures adopted by your Committees, to which you will to-morrow give living force and which your Governments and Parliaments will, I trust, ratify — I ask you what country would dare to declare war and stake all upon so dangerous a hazard ? What could it gain ? How could it hope to escape the might of powerful a coalition ? Make no mistake. Set us call things by their proper names—what is it that we are doing here ?

Animated one and all by a peaceful spirit of international collaboration, we are making a pact between nations great and small — a pact of mutual assistance against war — and we say to the world : " We will not allow peace to be disturbed hereafter ; we will not allow any problem to be solved by other than peaceful means ; we will not allow any country to bring upon the world another disaster such as that we have experienced.

I ask those who are willing to reflect — what country, however strongly urged by military ambition, would dare embark upon so perilous an adventure ? The enthusiasm that will be aroused among the masses of mankind by the unanimous vote of the nations assembled here will engender the necessary atmosphere of peace and will thereby add another barrier to those you have already reared.

And you, when you have achieved this great work that will be a landmark in the annals of mankind — for we who are living at this hour are so near to these events that, we cannot focus them in their true significance — you will then, I say, have a further task to perform.

One of the delegates of France, M. Jouhaux, who lives among the workers, has told you that certain causes of war still remain, causes of an economic nature. The material interests of countries are very powerful and influence these countries as the interests of individuals influence their feelings. However noble, however

generous those feelings, they are sometimes obscured by the greed of private gain.

You will shortly be called on to consider these economic questions. Having settled the political position, you will be asked to undertake the settlement of these complex problems, and in so doing you will be carrying on your work of pacification.

In this field, as in the political domain, you will find France at your side ready to help.

But to each day its allotted task. The task you have to-day achieved is mighty indeed, and if, as I am convinced, the Protocol submitted to you is unanimously accepted and receives the approval of the Governments, if it is ratified by the Parliaments, we shall have earned the right to say that we have inaugurated peace in the world.

That is my profound conviction, and when I speak to you in the name of France and offer you her adherence, I cannot but feel a deep and overpowing emotion.

The French delegation makes no reservation to the Protocol. We shall sign it as it is. We are sure that those who adhere to it will do so in all sincerity and honesty.

The Protocol binds in honour the States that sign it. Take the question of security. When to-morrow we say to a country " Reduce your armaments to what is strictly necessary, for you have signed a great pact of mutual assistance, and that is your guarantee " — when we say this, it will be our sacred duty, if that country is menaced, and all the more if it is attacked, to give it the security to which it is entitled.

What is best of all in this pact is that it makes no distinction between what are termed the small and the great nations. All nations will unite to defend one, whether small or great. All nations vow to lend one another aid, to bring succour if any is endangered.

Ere the Conference meets which is to study the great problem of disarmament, a problem which is perhaps even more complex than those that your committees were asked to solve, the Council of the League will be called on to examine the terms of the Protocol

which we are about to adopt. It will have to draw up a list of the forces which each country is prepared to contribute, to study from a technical point of view the possibilities which those forces offer and the circumstances in which they may be employed. It will also have to group there and co-ordinate them. That is a great and extremely complex task.

Not until we know the full conclusions of this work shall we be able to lighten the military burdens of the nations. Then, as to-day, France will be the first to collaborate with you. Our people fervently desire relief from the military burden that oppresses them. They are ready to lighten that burden. As soon as you have given her an assurance of security, France will take her place in the forefront of those countries which are seeking the solution of the great problem of disarmament.

France is honoured in adhering to the Protocol, and for myself, I repeat, the most memorable event in the whole of my political career is that I have come to this platform to bring you my country's adherence to the Protocol and her signature.

LORD PARMOOR,

Lord President of the Council, first Delegate of the British Empire.

Mr. President, it is with great pride and pleasure that I rise to support the resolutions before the Assembly, and which have been referred to in such eloquent terms by M. Briand.

At the outset, let me make this declaration on behalf of my delegation. The British Delegation is prepared unhesitatingly and with all the influence at its command, to recommend to the British Government the acceptance for signature and ratification of the proposed Protocol. In making this statement, I am adopting words which will be found in the resolution to be submitted to the Assembly.

I do not think it is necessary to enter into any detailed discussion of the draft proposals. Everyone who is interested in them

will have studied these proposals, or will have an opportunity of studying them, with the close attention which their momentous character deserves. But, in addition to this, we, who are present to-day, have heard the admirable and exhaustive analyses made by the two Rapporteurs. The remarks, therefore, which I desire to make on this historic occasion will be of a more general character.

First and foremost, I should like to take this opportunity publicly to thank the Chairmen and Rapporteurs of the First and Third Committees for their indefatigable work. I am sure that in saying this I am voicing the sentiments, not only of the British delegation, but of every delegation, since we all desire to pay tribute to their skill and devotion. We may justly congratulate ourselves on the appointment of these delegates to the posts which they have so admirably filled.

We have to bear n mind (I think M. Briand in some sense referred to it) that it is only three weeks — or a day or two more — since the British and French Prime Ministers entrusted to this Assembly of the League the task of drawing up a scheme which would provide a basis for an international conference on arbitration, security and disarmament. The time has been short in which to ensure accuracy and finality but to the best of their powers the Committees have carried out the task placed upon them. Those directly engaged in the work of these two Committees cannot have escaped moments of discouragement and depression. All the greater, therefore, is our satisfaction that the task to which we set our hands is well-nigh finished, and that the proposals before us have been endorsed with the unanimous approval of the members of the First and Third Committees.

The problem before them may be stated in a slightly different way. The Committees had to consider how to frame, within the limitations of the Covenant, a scheme based on the general principle of arbitration, providing at the same time such a full measure of security as to pave the way for that real measure of disarmament which, within the terms of the Covenant, is recognised to be necessary for the maintenance of peace.

By the terms of the Covenant itself, the signatory Powers have accepted the obligation not to resort to war, and I know of no other possible alternative to the horrors of war than the development of a general system of arbitration within the wide meaning, in which that term is used in the Protocol which embodies the proposals before the Assembly.

Arbitration provides for conciliation and justice, and requires patience, moderation and a desire to do right as well as to claim right. It provides a means of righting wrong between nations, without resorting to the greater wrong of warfare. It affords, through conciliation, the means of explaining away misunderstandings. It invites co-operation in the place of controversy and, in its higher forms, under the guidance of an international court, should point the way to the gradual building up of a recognised system of international law. This law should become the common law of nations and provide for the same measure of peace and security amongst the nations as the great systems of common law have provided for peace between individuals of the same nationality, on a basis of an equality which is blind to force, but, on the other hand, which is the foundation of all that is implied in the real and essential idea of justice.

I personally believe that the world is ready and waiting for the establishment of such a system, and that, in so far as any doubt exists, it is as to the extent to which sanctions can be devised which will be adequate to secure obedience to the arbitration principle and to the decisions given by the arbitration court or tribunal.

Thus we come to the great question of security. It is worth while for a few minutes to consider how it is proposed in the Protocol to solve this difficult problem. I am aware that any system of sanctions opens certain avenues of criticism, but we must maintain the right perspective and realise, without any illusion, that, if arbitration is to be maintained as a form of international security, adequate sanctions must be provided, however deeply some of us may feel that these sanctions are only likely to be required in a very small number of cases it fhey are ever required at all.

Sanctions whether economic, military or naval have inevitably played an important part in the discussions on the Committees. Let me, however, impress upon you at the outset that the basic idea of the sanctions in the Protocol is not how or when to make war, but, on the contrary, how to reduce the chances of war to a minimum and to preserve an assured system of peace settlement. We want sanctions, but we want them to make war impossible, and we resolved to do everything we could to make it impossible.

The first step was to define definitely and clearly the terms " aggressor " or " aggression ". The definition adopted is far-reaching and definite, and any State which comes within the definition becomes an outlaw and finds the entire influence of every country raised against it. Sanctions are intended to make hard the path of the evil-doer and to bring home to the whole civilised world that aggressive war is a terrible form of evil-doing.

I am the last person in the world not to give due weight to moral principles or christian ethics. To me they constitute the main foundation of the whole fabric on which the League of Nations has been built up. We have to encourage the growth of a sense of trust and confidence in arbitration which will further assure practical results, and, in the meantime, if the sense of security is to be such that disarmament may become a reality, we must provide a system which adequately appeals to all nations, and which accords with principles long accepted within the domain of arbitration procedure.

Neither the Council has the Assembly will have any power to interfere in the internal affairs of our respective countries beyond the limits already comprehended in the Covenant ; that is to say, not until a stage has been reached which means war, or a threat of war, at which stage a new condition arises and we pass from the sphere of internal questions into the sphere of international law. Let us therefore be quite clear what we are doing. There is no attempt to make the Council or the Assembly of the League into a super-State, with authority over the different

Governments. Any attempt to do this would, in my opinion be to court inevitable failure.

The sovereignty of the various Governments will remain supreme in matters pertaining solely to domestic jurisdiction and such matters should be rigidly excluded from the scope of the present proposals. If the worst happens — and we must face boldly the possibility that it may happen, however improbable it may appear to be — if the economic sanctions are insufficient and sanctions have to be applied by force of arms, the Council of the League will have no executive powers. There will be neither troops nor ships at its disposal. It will be neither an Army Council nor a Board of Admiralty, and its functions will be limited to making recommendations. Every Government, unless it voluntarily undertakes the obligation, will be free to decide, when the time comes, to what extent and in what form it can best co-operate loyally and effectively in support of the Covenant and in the common duty of giving assistance to any victim of aggression.

It would be a misuse of words to say that assistance to the victim of aggression is a form of sanction ; I do not shut, however, my eyes to the fact that, although the motive of action may be assistance to the victim, it may not be possible to give this assistance without creating a state of war as against the aggressor. It must not be forgotten, moreover, that in the event of a question arising under article 7 of the Protocol, as to whether any measure of military, naval, air, industrial or economic mobilisation, or any general action is of a nature likely to extend the dispute or to render it more acute, this question will come before the Council for examination ; it then becomes the duty of the Council to determine whether any particular action which has been taken constitutes an infraction of the undertaking contained in this article.

I do not think there is any risk of interference with the action taken by any Government when such action is directed towards the purposes of the League.

I have spoken clearly and categorically on the above subjects, since statements have been made for which, in my opinion, there is no foundation, and since misapprehension appears to

prevail in certain quarters. It was even said — I think it must have been said ironically — that the head of the British delegation had made an offer of the British Navy to the League of Nations. It is hardly necessary to contradict so absurd a statement ; but it may be well to point out that, under the terms of the present proposals, no such an offer could under any circumstances effectively be made.

Let there be no doubt that we have remained within the limits of the Covenant. Arbitration and sanctions already form the main fabric of the Covenant. Articles 10 to 16 of the Covenant, which it would be out of place to attempt to analyse on this occasion, contain the whole principle of preserving against external aggression the territorial integrity and existing political independence of all Members of the League, whether they be small or great Powers, and the other articles to which reference has been made contain the obligation to submit disputes to arbitration under the provision of the sanctions therein defined.

We are less immediately concerned with disarmament, but it is none the less the aim and object of all the proposals which are now before the Assembly. I have no hope that war will disappear among the organised nations of the world unless we can secure an adequate system of reducing armaments to the level indicated in article 8 of the Covenant. It is our duty to formulate the first step towards the calling of an international conference on disarmament ; but we cannot forget and we must not forget that arbitration, security and disarmament were inseparably connected in the speeches of the two Prime Ministers whose joint inspiration has guided us on our journey. We have joined them in a single chain, of which each link is an indispensable part. They are all three part of one whole, and until the complete chain is forged, we cannot pride ourselves on the accomplishment of our work. It is on this ground that I rejoice that there is no separation of these three inter-linked questions in the proposals which we make. It is expressly provided that until the Disarmament Conference has reached a successful issue, the provisions of the Protocol in regard to arbitration and security remain in abeyance,

which is justified not only by the urgent need of linking up these three great questions but in order that, through their interlinking, all efforts may be devoted to their common acceptance.

In his speech, before the Third Committee, my distinguished colleague, Mr. Arthur Henderson, warned us that the Protocol was but a step along a difficult and uphill road. Mr. President, the protocol is not only a step, it is the first step, a single step, and, cost what it may, let us determine to take this first step by a unanimous resolution of the Assembly. There is light on the horizon, a hope of at last attaining the real and lasting peace which so many philosophers and jurists have long striven to attain.

We members of this Assembly will advance side by side and shoulder to shoulder, slowly perhaps but steadily, and as we place our foot on the sands of time, let them always point in the direction of the road to di armament and pea e, so that each movement we make shall be in the right direction. In the sunshine of international friendship and conciliation, the difficulties which seem so formidable now and which are presented by our critics as an impossible barrier, will melt away. The spirit which has reigned at Geneva during the debates and discussions of the past month must prevail in the end and the dawn of a new day, the day of peace, will then break upon the troubled world.

Mr. President, through the long retrospect of history, it has been the aim of famous jurists and philosophers to promote peace and to br ng to an end the barba ous incidents of warfare. Our thoughts run from the time of Grotius to the efforts made at the conclusion of the Great War, which will ever be connected with the name of Woodrow Wilson. It is for each of us in our generation to take our part loyally and effectively in the forward movement which believe is about to be initiated in this great Assembly.

I will conclude by reminding you of the parting words of M. Herriot. They were an appeal to us to have faith, or, as he called it, a powerful faith. The Protocol is, evidence which we can give of the faith that is in us, faith in mankind, in the power

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of justice, and truth, faith in the destiny of humanity, and in the ultimate triumph of peace and goodwill.

M. SCIALOJA,
Former Minister for Foreign Affairs, delegate of Italy.

Mr. President, ladies and gentlemen—the Italian delegation wishes above all to thank our distinguished Rapporteurs and the two Committees to whose work we owe the draft Protocol now under discussion. We have assisted to the utmost of our ability in the work of these Committees.

For the first time in history we have endeavoured to solve the problem of substituting the processes of law for recourse to war, to which has hitherto been recognised as the final means of settling a dispute between States. A great step has thus been taken on a new road.

It cannot be anything more than a step, because we have had to carve our way through great difficulties. The most serious difficulty arose from the fact that it is essential that each State should preserve its own sovereignty intact.

These difficulties have been overcome by founding a new system of justice on the juridical relations of the international community i. e., by forming inter-State organs for judicial or arbitral decisions without, however, endowing such organs with powers overriding the sovereignty of the States themselves. As a result of this satisfactory solution, the sanctions provided for the enforcement of awards can have no other foundation than that convention which is binding on all States and which has been set up by them of their own fre will.

It is for these reasons that, after considering the very interesting projects examined by previous Assemblie, you have decided to rest content, in principle, with the system of sanctions provided by the Covenant, and at the same time to impove it in detail so as to ensure its prompt and unfailing application.

This was the only praticable solution in view of the stage in historical evolution that we have reached to-day. Any attempt to interfere with the course of historical evolution, either to hasten or retard it, will be doomed to failure. At any given period in history it is impossible to achieve more than the spirit of the age is prepared to accept.

We have, therefore, created a system based on the application of law as it is understood to-day. This system is, we hope, capable both of eliminating all controversies of a judicial nature and of maintaining the situation created after the last war, as well as the principles according to which the questions arising from this situation have been settled.

In reaching this result, limited as it may be to the elimination of these two classes of disputes, we may none the less taken a considerable step forward in the development of the principles embodied in the Covenant.

If the League of Nations accepts this Protocol it will mean that a great improvement has been introduced in the Covenant itself. We have reason, therefore, to congratulate ourselves on reaching such a result, and as representative of Italy I think I am entitled to express my special satisfaction. The principle of compulsory arbitration has long been advocated in Italy, as our delegate, M. Salandra, had the honour to remind this Assembly on September 5th, and as is shown, too, by the number of arbitration treaties concluded between Italy and other Powers from 1903 down to the most recent, which has just been concluded, without any restriction, with Switzerland.

However great the progress we have made, we must not claim to have found a remedy for all possible conflicts ; if we did, we should dangerously mislead the world.

Just as the physician must not merely treat the symptoms of a disease, but must seek the underlying causes, so in international relations we must endeavour to realise the great causes of unrest that have at all times influenced the life of nations.

History has at all times been a more powerful force than actual

law. Social and economic necessities are just as unescapable as physical necessities.

If we really desire universal peace, we must prevent conflicts from arising by endeavouring to stem the currents that lie beneath the surface of movements which convulse mankind.

This is a new task which the League must undertake in concordance with the fundamental rules of the Covenant. The Covenant contains several provisions which are closely bound up with the idea of international solidarity.

Our Protocol makes this solidarity a living thing by providing for common defence in case of aggression. But co-operation between States should not be confined to a assistance at the moment when the conflict becomes acute and violence is about to be let loose. It should be employed in time of peace to safeguard international life. By forming themselves into a League, the nations of the world recognise their duty to respect certain higher interests. The progress of civilisation is becoming an ever-greater factorin determining the nature and extent of those interests, and will eventually give them legal form and precision.

The spirit of brotherhood that is the soul of every community will inspire us in the work which lies before us — the work of preventing disastrous conflicts. Our task certainly presents difficulties which might at first sight be thought insurmountable, but in spite of this—perhaps, indeed, because of it—the duty of the League of Nations is to devote all its future attention and energies to this task.

Our Protocol should not, however, be criticised because it does not immediately provide a solution for these serious problems. We should rather place this to its credit, because it cannot and should not undertake anything that is not immediately practicable.

Some will accuse us of going too slowly ; others will probably blame us for attempting to go too fast. I was one of the authors of the Covenant and perhaps my share in it obscures my view of the matter, but I think if we have erred our sins are rather sins

of commission than of omission. We began by erecting our building on a legal basis without the solidity which experience alone could give, but we could not allow ourselves to be deterred from taking action by the fear of making mistakes.

Experience will come with time. We must trust to the wisdom of the Council and of the arbitrators and in the instinct of public opinion, which should draw strength from our achievement, to remedy the defects in our structure.

The Covenant, which is and must be the foundation of the Protocol, contains provisions which by themselves are not directly applicable, but which point out the path we must follow. We must trace and build well the road that leads to the realisation of our ideal.

The ideal of peace is not new, through centuries of blood and tears humanity has looked upon peace as the supreme happiness. It is taught by philosophy and preached by religion. The one need has always been a practical organisation for attaining the ideal. To-day, we are striving to establish that organisation. If the facts show that we have succeeded, we may rest conscious that we have devoted our lives to what is best and sublimest in human nature.

M. QUINONES DE LEON,
Ambassador in Paris and first delegate of Spain.

Mr. President, ladies and gentlemen — I wish to express both on my own behalf and on behalf of the Spanish delegation my warm and sincere appreciation of the work which has been laid before the Assembly by the distinguished Rapporteurs of the First and Third Committees, M. Politis and M. Benes.

The Spanish Delegation, acting on the instructions of its Government has taken part with the keenest interest in the work of the two Committees ; thanks to that work we have achieved, in the draft Protocol which is now before us, a very definite advance.

I venture to hope that the system which we now see in process of creation, and which forms a well-nigh perfect whole, will be inaugurated as soon as possible. A careful examination had shown that the Covenant contained certain omissions which have now been made good without any departure from its fundamental principles.

It is true that several provisions of the Protocol involve amendments to the Covenant, but the spirit of the Covenant, in which, as we have already had occasion to state, the Spanish Government places implicit trust, is fully observed. Experience may show that this system is still capable of improvement ; but such improvements cannot be more than matters of detail, and we may safely leave this task to future Assemblies.

The Fifth Assembly may well be proud of its achievement ; it will do honour to all of us who have had a share in it.

Compulsory arbitration, that splendid principle to which Spain has more than once manifested her attachment, will soon be an accomplished fact. We trust that the number of reservations will be trifling and that the Governments will not disappoint the high hopes which have been aroused.

I do not propose to go into the problems which have been so satisfactorily solved by the draft Protocol. You are all familiar with them — the definition of an aggressor ; the question of separate agreements, that has been settled in a way which I hope will dispel my Government's misgivings on this point ; even the question of the domestic jurisdiction of States and many other problems of equal importance. For all these difficulties adequate formulas have been found.

The Spanish delegation, which has given its approval to the draft Protocol and to the draft resolutions, has already made urgent representations to its Government to give very careful consideration to the acceptance of this new instrument of peace. It hopes that in the near future the countries represented here will have given this Protocol and these resolutions the welcome which they deserve.

M. PAUL HYMANS,
Minister for Foreign Affairs and first delegate of Belgium.

Mr. President, ladies and gentlemen — It is not without some apprehension that I venture to address you to-day. I do not wish to weary you or to reiterate trite and useless platitudes. Nevertheless, as representative of Belgium, I felt that it was perhaps my duty to speak.

Belgium has reconstructed her material and financial position. She has provided for the exigencies of the moment. In order to pursue her normal development she has need of peace, justice and security. She offers you these gifts and she is ready to help you to secure them for all.

On behalf of the Belgian delegation, therefore, I gave my full support to the resolutions before you.

I would like, however, to explain briefly what is implied in our support and to try to express an objective opinion on certain aspects of the present problem. I may perhaps claim to be qualified to do so as I have followed with close attention, and sometimes with emotion, the discussions of your Committees and the result of their work, although I took no direct part therein. I have therefore not been influenced by that kind of personal interest and *esprit de corps* which is born of close and continuous co-operation in a special task.

Never can an Assembly like ours, which only sits for a few brief weeks, have been assigned so formidable a task as that which was laid upon us at the beginning of this session in the remarkable speeches by the heads of two of the greatest Powers in Europe.

What was expected of us ? The London agreements had relaxed the sense of tension and cleared the atmosphere. They had shown the way to a calmer, serener clime. Mr. Ramsay MacDonald and M. Herriot considered that the time was ripe to go further and to make a decisive effort to draw up the rules of international life and to banish violence from the world.

In response to their appeal the Committees have achieved a great work, and, when we read the momentous, lucid and incisive reports of M. Politis and M. Benes, we realise the intensity of their work and the difficulties which they have succeeded in surmounting, often only by dint of the greatest ingenuity. It is impossible not to admire the grand proportions of their edifice and the care which has been displayed in providing for every emergency and in guarding against every danger.

But we must be careful, I think, not to misuse certain words. It has been said, not on this platfo m, but sometimes in the Committees, and it has been stated elsewhere in print, that we have killed war. This we cannot say, for to kill war we must destroy the inherited inst nc s of violence, rapine, greed and envy in the depths of men's souls. We must inaugurate an era of universal virtue. But what we can say is that we have blocked up all the avenues through which war can burst in upon the world.

I should now like to glance rapidly at the entrenchments and l nes of defence which we have constructed against war. The first of these lines of def nce is the pronouncement that war is forbidden except in self-defence. Next come the measures referring to threats of war and preparations for war and the measures designed to arrest hostilities at the outset of a conflict.

I would liketo survey briefly the two main innovations of the draft. It lays down the principle that all disputes must be settled in a sovereign and final manner. Although this principle has been emphasised by all the previous speakers, you must excuse me if I refer to it again. We cannot dwell too insistently on great and noble ideals, for our words are not addressed only to this Assembly, but to the peoples whom we represent and to public opinion in general.

It is a memorable fact that this principle has been adopted as the keystone of our plan on the morrow of a war that convulsed mankind. To-day all the nations assembled here are prepared to declare that they repudiate force, that they intend to substitute justice for violence and that no people will henceforth be allowed, any more than " a private " individual is allowed, to take the law

into its own hands or to decide the limits to its rights without regard for others.

It is a fact of the greatest signifigance in history that the Powers having force at their command solemnly declare before us here that they forbear to use it. This constitutes a complete revolution in international morality. In this manner public opinion will, by degrees, become accustomed to pacific methods of procedure and an atmosphere of confidence and peace will spring up among the peoples.

The second innovation which I welcome and which seems to me the boldest, the most ingenious, and perhaps the most interesting, is the definition, the automatic determination, as it were, of the aggressor ; I refer to the declaration of aggression, which is a new term in international law. Henceforth there can be no hesitation, no quibbling, no diplomatic controversies since aggression is determined by definite and patent facts or by a presumption *juris* et *de jure*, which can only be set aside by an unanimous decision of the Council.

I have the more satisfaction in recording this great advance, inasmuch as it dispels the misgivings felt by my Government when considering the former Treaty of Mutual Assistance, owing to the lack of a precise definition of aggression.

The machinery which is now being created is endowed with all the necessary speed and effectiveness. To realise the importance of the declaration of aggression, we must imagine the effect, the sensation it would make. Imagine war to have broken out, and then think of the effect of this solemn proclamation by the Council, the organ of the international community, this proclamation to the whole world that a State has violated its pledges and broken its word. Think of the sensation which such a condemnation would cause !

A State contemplating war would see itself arraigned before the conscience of mankind. And do not forget, gentlemen, how powerful moral forces are. In the very country in which preparations are being organised for war, the germs of internal dissension will arise. Men will call their Government to account, and the Government will find it impossible to constitute that moral

front and national unity, to arouse that enthusiasm of heart and mind by which alone a nation can be launched upon a military adventure or asked to make the supreme sacrifice.

I now come to the sanctions. Here, again, there has unquestionably been great progress. There are sanctions in the Covenant, but these have been defined, and it has been decided that they will come into force immediately on the declaration of aggression. All Members of the League are obliged, according to the terms used in the Protocol, "to co-operate loyally and effectively" in these sanctions. All will be bound to lend each other support and to provide each other with raw materials, credits and transport facilities. The great Powers wi'l assume the obligation of safeguarding the freedom of communications and the security of the highways of the seas. In order to perfect this assistance, the Council is enjoined to take the necessary steps to draw up plans of economic and financial co-operation so that the wheels of the machinery may be set in motion at the first signal.

In an age when commercial interests have woven innumerable bonds between nations, there can be no question but that economic sanctions applied loyally, rigorously and immediately would have a decisive effect. In the sphere of military sanctions the attempt has also been made to concert a definite plan, but, it must be confessed, without as much success as might have been hoped, out of deference for the sovereignty of States. The legal obligation, it is true, is enunciated in clear terms, but, if I may be allowed the expression, it remains indeterminate in substance and scope. Uncertainty, again, unfortunately subsists in regard to the forces which the Members of the League will consent to place at the Council's disposal and contribute to the common task of defence and repression. This is a weak point; but it is, I think, only sincere and politically wise to recognise it. The only remedy is the force of public opinion, the progress of the idea of solidarity and the willingness of the peoples to accept the sacrifices required in the common weal.

That, gentlemen, is our task. Here is a work of propaganda and education to which we must devote all our energies. Let us

make no mistake, it will take time to instil into the public conscience that sense of the international community which tends to unite the weak and to lead the strong to succour them.

I wish now to awell on two points which seem to me to constitute positive and practical improvements and to offer reliable guarantees.

The first is the creation of demilitarised zones and the ringht to place them under the control of the League. Think what these demilitarised zones mean. They will be islands of peace. Among the inhabitants of these regions will spring up a natural and instinctive resistance—selfish perhaps, but salutary, — to every attempt at violence that might threaten them with ruin and devastation.

The second idea is that of regional agreements, which embody the principle of mutual assistance in a restricted but extremely practical form. These agreements will allow adjacent or neighbouring States to decide beforehand the military assistance they will furnish each other in the event of an act of aggression being declared in conformity with the Protocol. In my opinion these regional agreements placed under the control of the League, and forming part of the machinery of our international confraternity constitute a most effect ve and practical instrument of protection and security.

I now reach my conclusion. In my view there are two errors which we must avoid in regard to the public opinion. It would be most dangerous to mislead the public.

One of these errors would be to regard the work which has been accomplished here merely as the creation of lawyers and theorists, the erection of a magnificent edifice of formulas and principles.

The other error would be to give public opinion the false impression that the problem of security had been definitely solved.

The truth is that skill and conscience have achieved a mighty task ; we have organised a whole system of measures of prevention, defence and repression, of guarantees, checks and sanctions from which war must it would seem, shrink back or break itself in vain.

We cannot of course but wonder whether in one of the great crises which sometimes convulse humanity, the complicated and scientifically elaborate procedure which we have set up and the precise and delicate mechanism which we are constructing will be able to withstand a violent shock.

On the other hand, it is perhaps not fully realised what an enormous risk would be incurred by a State thirsting for adventure, if it allowed itself to become dragged in to war and entered upon a career of conquest and depredation. Will it not be deterred by the fear of incurring the sanctions which we have established, those formidable economic sanctions which can wreck its commerce and its credit, and by the danger of rousing against it the moral coalition to which I referred just now, and perhaps a vast military alliance ? I think that these considerations would deter it in the same way as the fear of shame and punishment deters the individual from crime.

That is what we hope. That is what we are entitled to believe. That is what is humanly possible.

I have now one regret. We have fixed the principles and settled the procedure of our regime, but the regime itself is to remain in abeyance. Its application is subject to the adoption of a plan of disarmament to be drawn up by a conference at a more or less near date.

I confess — and you will pardon me of I speak quite frankly — that to my mind it would have been better that the system of arbitration and sanctions which two Committees have so admirably devised, and which is complete in itself, should be put into force, if not immediately, in the very near future. I am convinced that the immediate or almost immediate application of this system would have created an atmosphere of peace and would have given the world a feeling of confidence and security ; and after all it is only the feeling of security which can induce States to renounce in some degree the material and military guarantees which they have hitherto found necessary.

We must not, moreover, be blind to the many difficulties that we shall encounter in drawing up the programme for the Dis-

armament Conference which has been announced, or in reaching an agreement which will assign to each State its legitimate allowance of troops and material on the basis of its political situation, its geographical position, the development of its industries and its economic conditions.

After the great task which we have just achieved we find — as always happens in this life — a fresh problem confronting us, perhaps even more difficult and more complex than those we have already tried to solve. Our success in dealing with this problem will largely depend on public opinion and on the general political situation in Europe.

I say this because I think it my duty—a duty which, to my mind, we owe not only to the Assembly but also to our countries and to public opinion — to say sincerely what we think and what we can legitimately expect, conscious as we are that we have done our best.

We have undertaken a gigantic task! I am sometimes really amazed at the audacity we have displayed. We have undertaken to build a lasting peace on the foundation of this old world still shaking from the convulsions of the war, a world that rings with the clash of conflicting interests, traditions and memories. We have striven — and I think we have achieved a great work — in good faith, with good-will and in a spirit of enthusiastic co-operation. We have gone forward ; we have covered much ground ; the system we have organised has been brought to the highest possible degree of legal and technical perfection.

Nevertheless, as M. Politis and M. Benes pointed out this morning, we feel that we are not yet at the end. Law and jurisprudence must be completed and defined and, above all, the psychology of mankind must be adapted to a new regime. A new mentality must be created, and—this is one of the reasons for which I am of good hope — this new mentality does, I think, already exist.

We see it all around us ; it is as yet but in the bud, but it will grow, and it is our duty to train and fashion it at home, in our press, and in our public meetings so that we may save humanity from terrible catastrophes which might end in the destruction of civilisation itself.

Our work is not yet finished. We must pursue it. We must seek added moral strength in ourselves and in the conscience of mankind and we must steadfastly believe that we are capable of doing the work that it is our duty to accomplish.

M. ENCKELL,
Former Minister for Foreign Affairs, delegate of Finland.

Mr. President, ladies and gentlemen. — The Finnish delegation views with profound satisfaction the admirable work achieved by the Committees of the fifth Assembly.

The acceptance by the representatives of both large and small countries of the principle of compulsory arbitration for the pacific settlement of international disputes and the adoption of a system of security unquestionably constitute great triumph for the League of Nations and indeed, for all mankind.

Owing to her geographical situation, Finland has for centuries been the theatre East and West of sanguinary conflicts between in the extreme North of Europe. She acquired political freedom only a short time before the foundation of the League. Since she has been a Member of the League she has ever regarded the Covenant as the charter which guarantees her territorial integrity and her political independence. For this reason public opinion in Finland felt some misgiving over the tendency shown by the earlier Assemblies to interpret some of the principal articles of the Covenant in a way which she felt was not altogether in keeping with the fundamental principles of the League. There seemed to be a desire to reduce the responsibilities involved by international co-operation, which Finland wished to strengthen. The chief instruction given each year by the Finnish Government to its delegation was to support the adoption of any measure which would consolidate the League and make it a universal body.

As will be readily understood, therefore, public opinion in Finland experienced a sense of disappointment at the efforts of the fourth

Assembly to give article 10 of the Covenant an interpretation which was completely at variance with its real meaning ; at the adoption by the second Assembly of a clause restricting the obligations contained in article 16 and at the great caution and hesitation shown by the Council in applying article 17. When the fourth Assemby d ew up the draft Treaty of Mutual Assistance the Finnish Government, despite certain criticisms on points of detail was the first to notify its adherence to the scheme.

In view of the facts which I have just mentioned, you will see that the Finnish delegation has every reason to feel profound satisfaction at the unanimous agreement reached by the fifth Assembly in regard to the draft Protocol before us.

The Protocol is founded on principles and ideas which we have consistently supported. It fortifies international co-operation, it consolidates the position of the League, and it consecrates the triumph of the lofty principles ennunciated by the au hors of the Covenant.

We frankly admit that we would have been still better satisfied if some of the rules established in the Protocol had been slightly modified. In particular, we should have preferred article 10 to have been left as it stood without the amendment which was inserted at the eleventh hour.

There can be no question of the necessity of a supreme judicature, which, if surrounded by adequate guarantees, would answer great and vital needs, but we believe that, as at present worded, article 10 affords an aggressor State the opportunity of evading the immediate consequences of presumption of aggression, even if it acts at variance with the known opinion of the Council or of the Assembly.

It is our firm hope, however, that the important agreement now reached will be completed and perfected in the near future by the extension of the principles governing the Protocol ; and we are fully convinced that this agreement brings us nearer to our common ideal, for it strengthens that feeling of responsibility which each of us must be ready to bear in the general interest. The Finnish delegation will, therefore, gladly recommend its Government to sign and ratify the Protocol.

VISCOUNT ISHII,
Ambassador to France, first delegate of Japan.

Mr. President, ladies and gentlemen — For a month past the Japanese delegation has co-operated with you loyally and sincerely in preparing the Protocol of Arbitration, Security and Disarmament. The task which we have undertaken is undoubtedly one of unparalleled importance. We have therefore stated our point of view with a complete frankness which at times has unavoidably given rise to somewhat critical discussions, but we have been inspired throughout by a spirit of conciliation and a sincere desire for agreement. The only point which we were anxious to press was a purely legal one, and in so doing we were inspired solely by a genuine desire to arrive at a logical and consistent result.

In a problem so complex and difficult nothing but the sincerest candour and goodwill can lead to final and lasting success.

Thanks to the splendid efforts of all concerned we have succeeded in laying the foundations of our great project for the pacification of the world by arbitration and security and for the liberation of mankind from the heavy burden of armaments.

We also congratulate ourselves on the judicious mann r in which the First and Third Committees have worded the draft resolution. It is so formulated that all the delegations can accept it unreservedly and it therefore represents a great advance on the road towards general agreement.

The Japanese delegation has great satisfaction in declaring that it is prepared to give its full approval to the draft resolution.

Dr. LANGE,
Substitute delegate of Norway.

Mr. President, ladies and gentlemen — I desire to express on behalf of the Norwegian delegation our great satisfaction with the work which has been accomplished by the First and Third Com-

mittees. Norway was one of the first countries to adhere to article 36 of the Statute of the Permanent Court of International Justice which establishes compulsory arbitration for the settlement of legal disputes. We are overjoyed at the prospect of seeing all the Powers, great and small, adhere to this clause and accept the obligation settling by judicial and arbitral means all disputes, of whatever nature which may arise between them.

Need I say, ladies and gentlemen, that our joy is even greater at the prospect of a real reduction of armaments. We recognise the necessity of developing the system of sanctions, in the application of which we wish to co-operate loyally and effectively, as the Protocol puts it, in the degree which our special situation allows.

The Norwegian delegation will therefore vote for the resolution and for the recommendation of the Protocol, but I wish it to be quite clearly understood that I am only speaking on behalf of my delegation, since for various reasons we have not been able to consult our Government as much as we should have liked.

We make this statement on the understanding that the Protocol will not come into force until the plan for the reduction of armaments has been adopted. We therefore earnestly hope that the Disarmament Conference will attain complete success. The preparation for this Conference and its programme of work must now become the League's principal task, and we are glad to see that a resolution has been submitted to the Assembly regarding the summoning of the Conference and enumerating the different points which it will have to consider.

The reduction of armaments has been the primary objective of the League since its foundation. Moreover, it is the fundamental condition for bringing into full operation the system provided for in the Covenant and in the Protocol.

We must bring about a large reduction of armaments, and thereby remove any temptation to the stronger nations to abuse their strength. M. Hymans very rightly dwelt this afternoon on the complexity and difficulty of the task which the Disarmament

Conference will have to face. It is none the less essential that this Conference should succeed in its task, and the reward will be the application of a complete system of arbitration followed by a feeling of enhanced security.

It is proverbially difficult to make a start. I think we may claim, however, that the League has passed through the initial stage, though—to vary the proverb—transition is difficult too.

It requires a great effort of constructive imagination to visualise a state of things in which States will be disarmed and will live side by side peacefully pursuing their avocations under the aegis of the League.

The system of defensive armaments is so deeply rooted in the history and inner consciousness of nations that the eradication of that system will take time and long and persistent effort. During the period of transition there must necessarily be frequent hesitation, frequent clashes between the old order and the new. We must trust that mutual good-will and the vivid memories of the sufferings and horrors of war, which were so eloquently described by M. Briand this afternoon, will help to make the great work of the conference a success.

The Protocol we are considering is not an end in itself ; it is rather a means to an end. It is a milestone on the League's road to success. New problems will arise with which it will have to deal ; and, speaking not from a purely national, still less from an egoistic standpoint, but from the standpoint of the League itself, I say that the first task which will have to be undertaken after the Conference has successfully completed its work will be to develop what I may call the legislative functions of the Assembly. We view with the greatest satisfaction the step taken by the Swedish delegation in laying before the Assembly a programme for the codification of international law, to be carried out with the approval of the various Governments. But we must certainly go further than this.

I cannot attempt to compete with the distinguished Rapporteur of the First Committee, M. Politis, who, with such admirable precision and moderation, defined this morning the tasks which

we must take in hand in order to adapt the life of the international community to the principles of justice and to the social needs which dominate international society like any other society.

I will confine myself to making the following statement. If we are to bring the common life of countries and peoples more and more into line with the eternal principles of justice, we must deal in time with situations might one day become acute. The consuls of the League of Nations like those of ancient Rome, must be warned to watch over the public safety — *caveant consules*. Two miles above Niagara it is possible to land, but if you wait until you are 100 feet from the falls, you are inevitably lost.

We must therefore enlist the co-operation and good-will of all to bring this great work to a successful conclusion.

Implicit in the Protocol is a recommendation that the nations which are outside the League should bring their assistance to the Disarmament Conference.

That wish has often been voiced on this platform and I should like, in conclusion, to express once more the hope that the League will as soon as possible become world-wide. It must become universal or perish.

M. DE VASCONCELLOS,
Former Minister for Foreign Affairs, delegate of Portugal.

Mr. President, ladies and gentlemen — I do not know whether the document now submitted to the Fifth Assembly of the League is destined to govern the relations between human communities for long or even for all time. But whether our edifice is built upon rock or upon, sand we all owe a great debt of gratitude to those who have made the building of it possible, and I thank them on behalf of the country which I have the honour to represent.

You may certainly count upon Portugal's acceptance of the lofty principles embodied in this document ; she has complete faith that the vision of peace and security which it opens up before us will be realised.

Under this document we are all pledged to aid each other, but its best and most splendid feature is that the great nations, are to undertake solemn engagements towards the small.

M. Herriot said in this Assembly : " A great nation can, if need be, protect itself unaided, a small nation cannot " ; and Mr. Ramsay MacDonald said : " The certain victim of a military age and the military organisation of society is the small nation, which depends upon its moral claims in order to live ".

Thus for the first time responsible statesmen, the leaders of great nations, have publicly proclaimed the right of small nations to live secure from force and violence. For the first time they have pledged themselves to protect the freedom of the small nations and have offered the sources of their power to guarantee their security.

The peace of the world depends above all on the Great Powers. When once they have taken a firm resolve to prevent a breach of the peace — and the dawn of that day is at hand — peace wfll reign on earth, and never again will the doctrine of force become a factor in international affairs.

Our acceptance, as I have said, is certain. We have two draft resolutions before us. You have heard our opinion as to the first. As regards the second, I need only remind you that Portugal was among the first to sign the Protocol to which we are recommended to adhere.

The League has just taken a great step towards the goal fixed by its founders. We cannot believe that it will ever look back.

After this memorable debate, after carefully examining the work which has been fashioned by the artisans of peace, we cannot believe but that the rubicon has been crossed. Our agreement is too complete for it to be otherwise.

The League of Nations was created to save the peace of the world and we are convinced that it will succeed. Portugal brings in support of this glorious enterprise her profound faith in the triumph of the ideals of justice, of which the League of Nations is the advocate and champion.

M. KUMANOUDI,

Delegate of the Kingdom of the Serbs, Croats and Slovenes.

Mr. President, ladies and gentlemen — The delegation of the Kingdom of the Serbs, Croa's and Slovenes has already had the honour to inform the Assembly that our country will collaborate wholeheartedly in the great work of peace which is to be inaugurated by the Protocol.

I wish to express the profound admiration of our Government for the distinguished French and British Prime Ministers who, with their high ideals and fertile minds, proposed the construction of this great edifice for the welfare of the international community. I also wish to pay a sincere tribute to the Rapporteurs, M. Politis and M. Benes, who, by dint of their unremitting efforts and resourcefulness, have brought to a successful conclusion the most complex work the League has ever accomplished and have found practical legal solutions to reconcile views which at the outset were entirely opposed.

We give our full adhesion to the fundamental principle of the Protocol. Arbitration, security and disarmament form a indivisible trinity. If peace is to become a living reality, no longer haunted by the grim spectre of death and devastation, the first step must be taken to set up an organisation capable of settling all international disputes by just and peaceful means, and of enforcing the execution of judicial or arbitral awards. Moreover, the aggressor must be persuaded, that his criminal attempt is inevitably doomed to failure by the application of sanctions defined in detail in advance. When the Members of the League are called upon to apply these sanctions they will have to face the highest and noblest test to which the honour of a civilised nation can be put, for they will then be called to fulfil the obligations contained in article 8 of the Covenant.

The Protocol provides the foundations for this new organisation, and offers firm guarantees for the peace of the world. In

this connection there may arise a question which, though purely juridical, is nevertheless of great importance. It is an open question whether the Members of the League of Nations can, by means of a protocol, conclude with one another agreements which modify the Covenant even provisionally. It is conceivable, through it would be highly regrettable, — that if — as I hope will not be the case — a number of States were to fail to ratify it, the Protocol itself may become a partial agreement. Again, the Protocol is wider in its application than the Covenant, since it will at once be open to States non-Members of the League. And lastly, it may be objected that to modify in this way the Covenant, which is the social contract, the fundamental charter of the world, is to exceed the constitutional powers of the League.

Yet, in our opinion, the path which we are entering by means of the Protocol is the only path. The Protocol is an international treaty *sui generis* and must be so regarded, for it is subject to a suspensive condition, namely, the adoption by the Conference of a plan for the reduction of armaments. This condition, moreover, involves to some extent a potentative condition. Furthermore, the Protocol is subject to a resolutory condition in the form of a declaration on the part of the Council that the scheme has not been executed.

It would be difficult in practice to imagine amendments to the Covenant subject to suspensive or resolutory conditions.

The important point is that all the States, whether Members of the League or not should give their adhesion to this Protocol as it stands. When once all the required conditions are fulfilled, this will ensure it the necessary vital force.

If, while approving the great work embodied in the Protocol, I venture to offer a few suggestions, I do so in the firm hope that the future development of international law will make it possible gradually to adopt them.

All wars of aggression, as a legal means of imposing the will of any one State or any group of States, are prohibited within the international community. On the other hand, the defence of national territory and political independence is the primary and

sacred duty of every nation. A nation which does not defend itself when attacked is not a nation.

I am sure, you all share my regret that it is not possible in the present state of international law entirely to prohibit the use of force in international relations.

The Protocol gives the Permanent Court of International Justice compulsory jurisdiction in disputes of a purely juridical character. It is to be feared that reservations may be made which may diminish the value of this clause. In all probability these reservations will be so varied that it will be advisable to have a register which will be kept up to date and will be readily accessible to all States, on the model of the schedule provided for by the second Peace Conference at The Hague.

One of the chief merits of the Protocol is, as the distinguished Rapporteur, M. Benes, has said, that it has completely closed up the breaches in the wall already erected by the Covenant to protect the peace of the world. Every dispute can and must be settled by peaceful means. The three exceptions to this rule which were pointed out in M. Politis' report are fully justified. I note, in particular, the third class of disputes, to which the new system of pacific procedure cannot apply. They are, according to the report, disputes which aim at revising treaties and international acts in force, or seek to jeopardise the existing territorial integrity of the signatory States. It is one of the greatest services to the cause of peace to proclaim the inviolability of peace treaties which created national States after the Great War and enabled them to realise their age-long aspirations.

The definition of the aggressor in the Protocol is a most ingenious one. I feel bound, however, to point out that the presumption of aggression is not automatic in all cases. I need only mention that the question whether an award has or has not been executed may give rise to great difficulties. Moreover, the presumption of aggression is itself based upon a supposition. To place in the hands of the Council the final decision in regard to war is to confer on it sovereign power. In so doing the States have surrendered to the Council one of the most essential feature of sovereignty.

It has sometimes been asked why, when there is presumption, the responsability for aggression is determined by the facts alone without any necessity for a decision on the part of the Council, whereas, in law, facts are only considered in relation to legal measures, and this relation must therefore be established by a competent authority. The inconsistency is only apparent. It is true that the Council's injunction to the Members of the League to apply sanctions is an executive measure, but the facts must be put in the form of premises accompanied by reasons.

The question of economic and financial sanctions has, in our opinion, been settled on sound lines. These penalties are laid down in advance, and will be put into force without delay. Moreover, they are accepted by all the Members of the League.

Generally speaking, the effects of military sanctions are left somewhat vague and uncertain. Several Members stated that they could not undertake to apply them. Others, while recognising the obligation in principle, wished to remain sole judges of the extent to which they would apply such sanctions. Before gauging their practical effect, we must see what is the outcome of the undertakings which the various States enter into in advance as regards the forces they could contribute in case of conflict. If such forces were inadequate, the League would be obliged to settle the question on a different basis, and a fresh combination would have to be found. Should the forces offered not give the requisite security, it would be impossible to reduce armaments to the extent desired.

Fortunately the Protocol has left in force the partial agreements, which will unquestionably come into operation and which might advantageously make good any possible deficiency in the general undertakings.

Under the Protocol, the punishment of the aggressor is extremely mild. A State whose finances are in an unsound condition, for example, might enter into a war of aggression without incurring any economic liability. The risks it ran might be negligible. Moreover, the aggressor might in any case remain a Member of the League and even of the Council. Under the

Protocol, the aggressor State enjoys the guarantee of territorial integrity and political independence which, under article 10 of the Covenant, should only be given to the State attacked, the victim of aggression.

In our opinion, only a State which has fulfilled its obligations towards the League should enjoy this privilege.

All these provisions, constituting as they do a guarantee of which the aggressor is assured in advance, might easily, we fear, actually encourage aggression.

Despite all these criticisms, besides other faults inherent in all the works of man, we hail with enthusiasm this great advance along the path which is to lead humanity towards a happy future of fruitful work in an era of security and peace.

Small as is our country's place in the commonwealth of nations, we will, I am proud to say, do all in our power to help forward this work for the betterment of the world. We therefore declare that we adhere to the Protocol, which we shall sign with a firm and sincere resolve to put it into execution.

M. ZAHLE,
Envoy Extraordinary and Minister Plenipotentiary at Berlin, first delegate of Denmark.

Mr. President, ladies and gentlemen — All those who took part in the previous sessions of the Assembly must surely feel that this year there is a new atmosphere abroad. The confidence with which the peoples of the world hailed the foundation of the League five years ago seemed to have been shaken during the difficult years which followed the Peace, when the spirit of war seemed to be still alive and a feeling of insecurity paralysed every effort.

This year we have witnessed a profound change in the European situation, a change full of hope for the future. We all applauded the Prime Ministers of France and Great Britain, who came to this Assembly to prochain a new international policy, which,

indeed, was not out of keeping with the national traditions of these two great countries, but yet gave expression to the new spirit which has appeared in international relations.

The outcome of this new spirit is the draft Protocol, the signature of which we are about to recommend to our Governments. This result is due, not only to the devoted work done by all the members of the two Committees, but more especially to the brilliant intellect and lucid thought of the two Rapporteurs, whose names will ever be written large in the annals of the mankind.

The Danish Government feels deep satisfaction at the great advance that has been made by the recognition of the principle of compulsory arbitration, which will be put into application as soon as the Protocol comes into force.

For a long time past Denmark has ardently advocated compulsory arbitration. We have applied this system in all arbitration treaties which we have concluded, even on vital questions, whenever we have obtained the consent of the other party thereto. We have adhered to article 36 of the Statute of the Permanent Court of International Justice. Ever since the first Assembly we and the other Scandinavian countries have proposed that the Covenant should be amended with a view to the extension of the principle of arbitration.

We also recognise the desirability of embodying in the Protocol definite provisions for the application of the sanctions contemplated in the Covenant, the object of this measure being to create that feeling of security on which the success of our efforts to carry out the reduction of armaments promised in the Covenant unquestionably depends.

In the discussion of the Third Committee, we explained how we interpreted the stipulations of these articles. We are glad to note that there is general agreement on the principle that, as regards military sanctions of all kinds, the wide differences which exist in the geographical situation and the armaments of the various countries must in all cases be taken into account.

We are glad that, notwithstanding the divergences of opinion expressed during the debates, the First and Third Committees

have succeeded in establishing a satisfactory basis for the forthcoming discussion on disarmament.

The Danish Government notes, too, with keen satisfaction that, owing to the linking together of arbitration, security and disarmament, it has been possible to appoint a reasonably early date for the international conference which will have the duty of making disarmament a living fact.

In the past, discussions on the reduction of armaments have failed to come to grips with realities. No one dared approach this thorny problem as long as relations between the countries of Europe continued strained. We are now assured that a genuine effort will be made to settle this problem-which is of vital importance. Everyone is agreed — and the Protocol says so explicitly — that if this attempt fails, the whole system which we have elaborated this year will collapse.

The Danish Government believes that the greater the progress we make in disarmament, the more solid will become the edifice of which this Assembly has laid the foundation by working out the draft which we are now discussing. If the Disarmament Conference should only succeed in effecting a perfunctory or trifling reduction of the present armaments, there would still be some communities in which the military spirit would be very different from that spirit of peace and conciliation which has inspired the work of the present Assembly. The authority of the law and the authority of the League will not be assured until the formidable machinery of war and destruction, which is the legacy of the era of the great wars, is reduced to a small force designed solely to maintain order and assure respect for international undertakings.

We are not deceived into supposing that next year's Conference will attain this result at the first attempt. We hope, however, that it will not be content to accept trifling reductions which will leave the present system intact. We trust that it will at least evolve some scheme of progressive reduction, and that, even if this reduction is only effected slowly throughout the subsequent years, it will be continued until a really substantial result has been

attained. We have every confidence that the Council will approach the task of preparing for the Conference in this spirit.

The Danish Government, like the other Governments represented in this Assembly, has not yet had time to give full consideration to all the details of the Protocol voted by the First and Third Committees. For the moment, therefore, we cannot bind our Government and Parliament, but we will vote for the acceptance of the proposal recommending the Protocol to the earnest attention of our Government. We do so in the hope that, in adopting the provisions submitted to us, this Assembly will be laying the foundation of a movement which will bring the nations of the world more security and more happiness than they have ever known.

Mr. ARTHUR HENDERSON,
Home Secretary, delegate of the British Empire.

I desire cordially to support the resolutions submitted to the Assembly. Having stated my position at considerable lenhgt in the Third Committee, I confess that it is only the importance of the present occa ion which impels me as a member of the British delegation to intervene in this discussion. I promise, however, to de ain you only for a few brief moments.

I support these resolutions because I consider that the Protocol represents a reasoned, intelligent and scientific attempt to dispose by peaceable means of friction in international affairs. The Protocol in my opinion is an advance upon any previous effort inasmuch as it represents a development of the moral elements of the Covenant. By seeking the application of conciliation, arbitration, and legal jurisdiction it indicates the desire to make reason, right and justice—not force—the League's first line of approach in the attempt to settle this great problem. It represents a serious effort to apply that great spiritual conception which the League of Nations should always embody in its constitution and policy.

The community of interest amongst all peoples renders it imperative that peace should be preserved by the States, voth large and small, being encouraged to find their guarantees of security and freedom in greater measure through a spirit of co-operation and goodwill

The report we are now discussing very properly reminds us that arbitration is the foundation of this new structure and that the Permanent Court of International Justice is to be accepted more than ever before as an organised part of international life.

In this scheme we are declaring that there must not only be machinery for enforcing the law on the basis of existing conditions, but legal, peaceable and constitutional means of altering those conditions as and when it is considered necessary.

As Bryce, in his work on international relations, says—" Any guarantee of a *status quo* ought to be accompanied by ample provision for an examination of the existing causes of these discontents and their removal ".

Though we are compelled to recognise that there may be many changes which, under existing conditions, it is not in the power of the League to make,—it cannot afford to give the impression that it is content to permit the permanent stereotyping of the wrongs of the past.

Allow me to make another point in connection with this aspect of the case

It may safely be said that this is a historic occasion and we may be pardoned a brief and grateful reference to the services of the various persons and powers, who in time past pioneered those great movements throughout the world in favour of arbitration.

In this connection the United States of America, which was the foremost advocate of obligatory arbitration at the second Hague Conference, is entitled to our gratitude and congratulations. The great ideal which the United States then nobly but ineffectually championed is bearing its great triumph.

This triumph is all the more complete not only because of the number of States which are expected to ratify the Protocol, but

also for the much greater scope of arbitration which this new scheme covers.

We send, therefore, to-night our congratulations to the pioneers of the great and good cause of international arbitration.

I now come to the question of security. Since the close of the great world war the problem of security has engaged the serious attention of s atesmen in every part of the world.

Two years ago the third Assembly declared that in the present state of the world many governments would be unable to accept responsibility for a serious reduction of armaments, unless they received in exchange a satisfactory guarantee of the safety of their country.

The question of security remains to-day of primary importance because the hopes of many people are centred in their national security.

Need I remind you, that for two years the League has endeavoured to find a solution of the problem in the draft Treaty of Mutual Assistance ? On September 6 h, 1924, this Assembly determined upon a new examination of the existing obligations contained in the Covenant, with a view to strengthening international solidarity and settling by pacific means all disputes which may arise between States. The Assembly recognised that the security of nations could not be effectively guaranteed by sectional military alliances, but must be founded on a higher moral conception, expressing itself through universal arbitration and disarmament.

The first Committee was entrusted wi h the task of preparing a series of proposals which, if properly applied, will encourage States to regard with grea er confidence, the moral authority of the League. It may safely be said that every school of political thought admits the need of some form of security. Any difference of opinion that exists is a difference as to method. One school says : " Give us security, and we will consider disarmament. Another says " Go in for disarmament, and you have your security ".

The present scheme frankly recognises that disarmament

must, at any rate, be associated with some form of guaranteed security.

It recognises that some nations will refuse to disarm and thereby expose themselves to the risk of attack and even defeat. It is a fundamental principle which no-one can dispute, that those who accept justice and disarmament shall not become, by that fact, the victim of those who do not.

In such circumstances, may I ask, how this scheme meets the case which I have just stated ? First, as I have said, it seeks to be thoroughly practical by endeavouring to eliminate or to reduce to a minimum the risk of conflict ; and secondly, it suspends the use of force to the last moment, to the moment at which it is required to protect the community of nations against the criminal action of an aggressor State. And even when, as a last resort, military action has to be taken, it will be conditioned, under this scheme, by guarantees to the world at large that individual States will not misuse the military action which they have undertaken on behalf of international society as a whole in order to secure what they may conceive to be their own individual material advantage.

In other words, this scheme will secure for the world as a whole a system—as the Prime Minister described it last summer in the British House of Commons—of pooled security. It will altogether (and we may hope finally) get rid of the accursed policy of imperialism by rendering impossible territorial conquest and aggrandisement. Henceforth the might of nations will be the servant of international justice.

In the present scheme we have established a joint method of comprehensive obligatory arbitration, coupled with a collective undertaking to apply sanctions against an aggressor, and we believe that this joint method will provide a more formidable and effective security than any other. When the members of the League undertake to co-operate loyally and effectively to punish the aggressor, I believe they will strive honourably to fulfil these obligations, having regard to their geographical position and the condition of their armaments. There will thus be provided in

any emergency a measure of security which will be real and effective and which is strictly consistent with the aims and objects of a real League of Nations.

I claim, moreover, that the line followed in the scheme will do much to allay the misgivings which many of the friends of the League felt because of the military and material conception on which, in their view, the draft Treaty of Mutual Assistance was based.

I confess that the Protocol contains some provisions which I would have preferred to have seen omitted. When I say this I admit, as the representative of the Netherlands pointed out with great force to-day, that great progress has, nevertheless, been made. We have had to adopt the scheme as it is because we had to recognise that as yet a full measure of confidence in the cohesion, the peaceful intentions and the moral au hority of the League has not yet been established. Until this full measure of confidence has been secured some States will continue to think that military force is an indispensable condition of their national security.

I want, however, to follow this up by saying that if the League is to remain the repository of that which makes for peace and for social justice in the world, it must always stand out pre-eminently for sound policy and high ideals. The League must at all times actively remind us that war, as Mr. Hay, a former American Secretary, once said, is the most futile and ferocious of human follies. This is to be done in future by emphasising the importance of eliminating as far as possible the danger of war by the joint application of the three great principles : Arbitration, Security, Disarmament. These are to be inseparably combined and made to operate through the Covenant as amplified and clarified in the articles of the Protocol.

Finally, I would say that, notwithstanding many drawbacks and limitations, I am convinced that this scheme now before the Assembly, taken as a whole, is a great advance upon anything previously attempted. In all this work the supreme purpose we have in view is disarmament. It is only when the great Confer-

ence which we hope to call next year has done its work that the fruit of this scheme will be harvested. We hope and we intend at that Conference to achieve the measure of disarmament which will mean a vital change in the social life of almost every country and of the world as a whole.

I need not say how warmly the British delegation welcomed the words spoken to-day by M. Briand on this platform. We welcomed them because we believe that France and Great Britain, working together as they have worked here in co-operation with the other Members of the League, can secure that great measure of disarmament to which I have referred.

I know that, as M. Briand said, the technical difficulties of the problem are very great. It is no use disguising this ; the military machines we have all built up will not be easy to unbuild, and the sooner we appreciate that fact the better. We believe, however, that when the peoples of the world realise what this scheme will mean to them, their enthusiasm and their support will sweep aside any difficulties with which we may be confronted. It is forth is reason and because we believe that, notwithstanding any drawbacks and limitations it may have, this scheme, taken as a whole, is, as I have already said, a great advance upon anything previously attempted, that we trust, therefore, that every delegation will give to the resolutions their willing, loyal and enthusiastic support.

The vote which we give here to-morrow and the spirit in which that vote is given may determine to what degree our work is approved and ratified both by the Governments and the Parliaments whom we all represent.

M. PAUL BONCOUR,
Delegate of France :

Mr. President, ladies and gentlemen — The Assembly will not look to me to add anything to the speech pronounced yesterday by M. Briand, on behalf not only of the French delegation, but

also on behalf of the French Government, which had given him full powers for that purpose. M. Briand performed his task with all the authority lent by his long experience and great gifts, and with that prestige which he has earned by the fact that he has on seven occasions held the reins of Government in his country, — on more than one occasion during a tragic episode in her history.

I have, therefore, nothing to add in the name of France to M. Briand's eloquent speech, but, following the example set yesterday by my friend, Mr. Arthur Henderson, I think it is only natural that, after the heads of delegations have spoken, those who have toiled day by day at the work you are about to sanctify with your approval should, so to speak, weld into a single whole all that has been said in the remarkable reports of the two men with whom we had the honour to collaborate in this work. It is only natural that we, who, day by day, hour by hour, at these long meetings bore on our shoulders the stones wherewith our work has been built, who tested their solidity and riveted the different parts together should, now that the Assembly is on the point of voting, feel, if I may say so, like the master-builder, who, when the house is built, mounts to its topmost gable to gaze on the completed structure, and with words of hope calls on the sons of men to come in and rest their heads.

Those who read in the newspapers the somewhat fragmentary accounts of our long meetings may no doubt have thought it strange, and even paradoxical that serious men, many of them holding the highest office in their land, should pay such meticulous attention to the alteration of a word or the transfer of a comma. Indeed, the contrast between this studious attention to detail and certain very serious events that have occurred has naturally been exploited. At the very hour when were discussing at length the best methods of ensuring peace, the heavens were ringing with the cry of peoples appealing for aid.

But at the present moment, when we can gaze on the entire completed structure, we may congratulate ourselves on the fact that, thanks to the legal experience of many among us and the statesmanship of many others, our discussions were carried on

with such meticulous care. There is surely no other Assembly that could in so short a time have built an edifice like this.

The edifice stands firm, for its foundations are laid in the juridical traditions of treaties and pacts of alliance. The Protocol is a treaty of alliance in every sense of the word, and its classic form, based on the most ancient traditions of public international law, is proof of your determination ; for, conscious of the gravity of the undertakings to be entered into, you have decided that, to give the Protocol its full force, it would not suffice for heads of delegations merely to file by in solemn procession and signify their approval, but that the obligations embodied in it could only be made final if ratified by the organs of national sovereignty in each country.

A treaty of alliance ? Of course it is a treaty of alliance · a vast treaty, intended to embrace not only the fifty-five nations which will, I trust, adhere to it, but also those which are not represented here and which, I earnestly hope, will not fail to give it their approval ; a treaty of alliance so wide as had never yet been thought possible, containing, as it does, engagements more elastic and more diverse than were ever embodied in treaties of a more definite nature.

This is the basis of the Protocol ; this is its main feature ; this is where it is new. The alliance established by it, unlike the old alliances, is not restricted to a specific group of interests, nor is it directed against another group of interests. It is, of course, concluded with an eye to a possible enemy, but that enemy is neither our neighbour across the frontier nor our successful rival in trade and commerce. That enemy is not the reigning dynasty of another country, nor yet a people that is presumed to be attempting to chastise or restrain the national ambitions of another. The enemy has no name. His name will be known when pronounced by the Court of Arbitration, when he, who, perhaps at this very moment, may be secretly harbouring in his uncomprehending heart thoughts that threaten war, will be arraigned by judges whose impartiality is above suspicion. On that day all the civilised nations of the earth must rise against him.

The name of the aggressor will be pronounced in the calm atmosphere of a hall such as this, by a permanent court of justice or by arbitrators appointed by the Council or the Court, or by arbitrators appointed by other arbitrators. These judges or arbitrators will first assure the maintenance of peace by provisional measures, which will carry with them a binding force such that the mere failure to observe them will constitute a case of aggression. They will then be able to deliberate in an atmosphere of calm, whereas on former days, in the times of the old alliances, in the midst of a nervous excitement that was only to be expected, since each wished to be the first in the field, the armies moved forward to the fray, troops were massed on either side of the frontier like gathering clouds bearing in their bosom the lightning that speeds the thunderbolt, and war began almost before it was even declared. The calm atmosphere that you have ensured for their deliberations, the tranquil environment with which you have surrounded the men who will decide on peace or war — that is the innovation which you have made in this new treaty of alliance.

That is the innovation and that is the reason why all men are closely watching our debates.

Ah, gentlemen, if we had only gathered here to make yet another grand but futile protest against war, we should be unworthy of the great hopes that attend our work and that cannot be repressed by the mockery of the cynic. And that would not explain why, at the moment when we met with difficulties, the entire world was suddenly overcast as by a cloud.

No, gentlemen, war has been reprobated throughout the centuries. Our protest is not new. Lord Parmoor was right yesterday when he said that all the greatest geniuses of the world and the highest civilisations have in their turn protested against war. But one after another the greatest civilisations have collapsed, simply because from afar there appeared over some frontier new nations, new races, whose superior strength lay in the hardness of their hearts and the sharpness of their swords.

What is new is that we have a Covenant, we have an alliance; whole nations have this time combined together to prevent the

crime of war. What is new is that we are here engaged upon the extension of the Covenant, for ere the embers of war had been stamped out, ere the wounds had been healed, ere the smoke had ceased to rise from ruined towns and villages, ere the armies had been disbanded, ere the earth had ceased to shake beneath the weight of engines of war, certain far-seeing men realised that a war like the last war could not terminate in a treaty like other treaties. They realised that the necessary preamble to that treaty was the Covenant that unites us here.

By the bitter irony of fate the nation which expounded this new alliance in clearer terms than any other is only represented here by a tablet to the memory of President Wilson, and by friendly and sympathetic observers who bring us valuable inspiration in all the different questions with which we have to deal. We hope that the day is at hand when they will collaborate in our work with the unequalled authority that will be given to our Protocol by a nation whose material power is animated by the loftiest idealism, of which she gave such signal proof in the war.

Our Covenant was established, at the conclusion of that great conflict, by men who realised that all those who died in the great conflagration made the supreme sacrifice with willing hearts because they were convinced that they had fought in a war to end war.

But like all human things, like every living being, like every national or international institution the Covenant can only prevail in so far as it follows its logical course of development, in so far as experience reveals the loopholes by which violence might again burst forth upon the world, in so far as it can in the light of past experience be steadily rendered more real and more efficacious.

This is the justification for our Protocol. It is only a development of the Covenant ; every essential part of it must first have existed in the Covenant. If I may be allowed a comparison which, I think, elucidates the scope and purport of our work, and which will be perfectly clear to the statesmen and lawyers among us, I will say that the Protocol is to the Covenant what the rules of public administration are to the law.

Everything is contained in the law, and the binding force of the provisions embodied in it can only be derived from the law. But if the law is to be made applicable and living, if it is to enter into force, it must be completed by regulations, decrees and practical measures.

That is what we have attempted to do here.

At the head of the Protocol, which develops the Covenant, extends, defines, sanctifies it and puts it into effect, we have inscribed three words, three fateful words which we have so often repeated that I feel I could almost say them in a foreign tongue if I were not afraid of mispronouncing them "Arbitration, security, disarmament".

First, arbitration. Arbitration, let me say at once, is in itself a factor in security. I say so because, being about to show you that this factor alone is insufficient, I do not want you to think that I am one of those bold spirits, or one of those who think themselves such, whose narrow minds are mated to small hearts. I believe in the efficacy of moral forces in themselves. It is, as I believe, a great and significant fact that henceforth there will exist arbitrators and judges, accepted to-day by all signatories of the Protocol and accepted to-morrow by all who are ready to join us in our work — arbitrators and judges to whom will be entrusted the duty of declaring who is right and who is wrong, who is the aggressor and who the victim.

I am convinced that by this moral force alone, by the pronouncement of this judgment, by this application of law to force, any State which is the victim of unjust aggression will acquire such immense prestige in the eyes of the world and of its own people and will be furnished from every side with so much assistance that by that fact alone arbitration will become a means of security.

Yet, as I said just now, arbitration is only one factor in security.

When, at the assizes of this Assembly, France heard the principle of arbitration enunciated by some of those friendly observers who have not yet taken their seats among us, and accepted and reaffirmed by our friends of the British delegation and by many

others, she welcomed it with the keener enthusiasm because it represents an idea to which that great statesman to whom you have so often paid a tribute, and who is alone prevented by ill health from taking his place at the head of our delegation, has devoted his life.

But just because she believed in this principle, France knew, alas ! — to repeat the saying that our Premier quoted from Pascal — that " Justice without might is unavailing ". France knew that many disputes had been submitted to arbitration. We were all, I am sure, edified when Lord Parmoor on this platform mentioned the great number of cases and added that not a single award had been disregarded.

I would venture to point out, however, with all deference to Lord Parmoor, that, although in the nineteenth century every arbitral award was in fact respected, it is unfortunately the fact that not one of the great conflicts for which mankind has bled, and not one of the vital causes — or what were believed to be vital causes — which led to those conflicts, was ever brought before a court of arbitration.

If, as we desire, there are to be brought before those courts not merely minor disputes, but really serious disputes, if States, in order to evade arbitration, are not to appeal one to its national honour — as if it were a slur upon honour to accept the decision of arbitrators — another to its vital interests — as if there were a more vital interest than that of safeguarding our civilisation against war — if arbitration, I say, is to to be effective at all times and in all places, it must be guarded by sanctions. If we are to prevent war, the people whose eyes have not been opened by the bitter lesson of recent history, by the anguish, the wounds, the ruins in every land, must learn that war has become so difficult and so hazardous that it can never again be depicted as gay and joyous.

War must be made impossible ! only so can war be killed !

The new feature in the Protocol, the force of the Protocol, which defines the Covenant, is that, when once responsibility for aggression has been clearly and unmistakably determined before the

whole world, this fact alone will bring into play a machinery of santions such as history has never yet known. In the first place, it will employ general economic sanctions. Every people, every country, every nation, whatever its geographical situation, whatever its importance, whatever its traditions, whatever its history, possesses means of production which are its life-blood, possesses an economic and financial system, and, as a signatory of the Covenant and the Protocol, must not only place all these at the service of the victim of aggression, but must, in addition, deprive the aggressor of any help therefrom.

So varied, so universal in character are those economic sanctions that they will unquestionably render the situation of the aggressor intolerable. Even supposing that, at the outset, his sudden and treacherous attack were successful, he would, in a war of attrition, succumb with the sureness of Fate to the economic alliance of the whole world.

But that is not enough. Those who are to shelter in the edifice we are building, those who decide to accept general arbitration must not even for a single day be exposed to the danger of invasion or of an attack upon their political independence. The whole world must know that there must be an end of these surprise attacks, these territorial occupations which bring ruin in their train, — ruin to be followed by reparations, the burden of which threatens to overwhelm the peace of the world. For this, we must have military sanctions—aye, and naval and air sanctions too— for at present, alas ! the genius of man has conquered a new element but to render more deadly his engines of destruction.

Military, naval and air sanctions, then, are essential ; but it is clear that these cannot be either as universal or as uniform as economic sanctions.

We are building on a foundation of reality, a reality which is not merely European, but world-wide ; and as regards sanctions, the States are clearly not all in the same position. Some of them have for years, nay, centuries, been far removed from the din of battle and from the high roads of invasion, and have in consequence been able to restrict their armaments to those required

for the defence of their territory ; they may, in fact, be considering the possibility of reducing even these. With the best will in the world, they cannot offer what they do not possess. And here I will venture to repeat the words we so often used in the Third Committee : " Our all, but no more ! " Other States which possess large forces, will obviously be loath to employ them in any and every conflict which may arise, for they are legitimately entitled to take into consideration geographical conditions.

In the case of military, naval and air sanctions, therefore, it is impossible to establish that world-wide equality, as it may be termed, which exists in the case of economic sanctions. The Protocol repeats what is laid down in the Covenant, and defines the difference between paragraphs 1 and 2 of article 17 of the Covenant. In articles 11, 12 and 13 it emphasises the unavoidable difference between these two classes of sanctions, although the principle of sanctions remains both general and obligatory in character.

The definition of this difference in the Protocol was not reached without difficulty, and, no doubt, criticisms will be levelled at it in different countries and from very different angles. The intention was to strike a middle course which would avoid, on the one hand, what would be impracticable and would render our edifice uninhabitable, and, on the other, would obviate an excessive looseness which would have allowed a country to shirk, from purely selfish motives, its share of the work. Care has been taken to avoid leaving the decision to the Council, because such a course would have involved an infringement of national sovereignty; on the other hand, the decision has not been left to each individual State because that would have ruined the Protocol as well as the Covenant, of which the Protocol is the continuation and development. A solution has been sought in co-operation between the Council and the States. Article 12 of the Protocol provides that, as economic sanctions are general and universal in character, plans for economic and financial co-operation can and must be prepared in advance both to assist the State attacked and to be directed against the aggressor.

Article 13 of the Protocol recognises that nations, which, either through their geographical situation or through some more definite menace, are in similar position as regards a treat of aggression, are entitled to determine among themselves the precise sanctions which they could at once bring into operation on each other's behalf. Thus the Protocol retains the partial agreements, which are at once a consequence of and the reason for the varying conditions that we are obliged to take into account in the Protocol ; while, on the other hand, there are nations which cannot be asked to do anything and other which cannot undertake in advance to act in any and every case that may arise. The Protocol admits that those States which, through their situation, are bound to face such possibilities, may on that account give each other an undertaking that the military, naval and air sanctions will be applied at once. At the same time it has attuned these partial agreements to the general spirit of the Covenant. It has brought them under the scheme of arbitration and it lays down, first, that they are subject to registration and, further, that their operation is subject to supervision, in order to ensure that they are and remain purely defensive treaties coming within the general terms of the Covenant.

As regards States which do not thus take specific and joint action to counter possible danger, the Protocol lays down that they should indicate to the Council the nature of the forces which they could, if required, place at its disposal.

Of course, these States are not bound under article 13, paragraph 1, to give this information, but it should be borne in mind that the Protocol, with that logic which the authors may justly regard with a father's pride—pardonable pride, though, because there are so many of these fathers that at any rate they cannot be accused of egotism—the Protocol, I repeat, by Article 17 which deals with the third term of the problem, the final aim, the reduction of armaments, binds this reduction of armaments, or rather a detailed programme of the reduction of armaments, which, as you will rightly suppose, is the acid test for the success of the Conference, with the indication to the Council provided for in article 13.

Here we have the essence of the whole Protocol, and we see how its firm and logical structure links together the three terms of the problem.

I must draw to a close, for at this hour it is our duty to be brief. At this moment, when we are at the end of one stage, we must remember that it merely marks the beginning of the next, the reduction of armaments, and to complete that stage we must advance with hearts and minds united.

The reduction of armaments is not a cause, but an effect ; it will come into being from the very atmosphere of security which the present Protocol will give the world. The more numerous the signatures to it, the more spontaneously and enthusiastically it is signed, the more ratifications it secures, the fewer the reservations which are attached to it, the more openly and frankly will information be given to the Council. There will be reservations, of course, but they will be stated in terms so clear as to form in themselves a pledge of honour that the call for succour will be answered. Moreover, if reservations are made now, the conference on the reduction of armaments will be able to meet secure in the knowledge that it will not sinply bring fresh disappointment to the people who look to it with expectant eyes.

At the stage which we have now reached we are, at any rate in spirit, like the traveller who, at each successive peak, sees new and ever new horizons open out before him. Even when we have reached the end of our road, we shall still noth ave attained peace. We shall have created a machinery for peace, but the policies of Governments will have to be the driving force behind the machine.

We have built our mansion. I think we have built it well. Let us first pay tribute to those who have toiled hardest to build it ; but a meed of praise is due to us all, for have we not all worked with a will during these four weeks ? Have we not by our joint labours created a bond of friendship such that, had the League of Nations done nothing else, it would still have achieved a great work?

You have built a solid edifice, but it is for the Governments, by their policies, it is for ourselves in our respective countries, to see that this mansion can be inhabited, and that the world shall

really feel that it can therein find sufficient security to enable each nation to lay down its arms.

I will not say that our task is only beginning; it began with the Covenant on the morrow of the tragic hours of the war. But it is progressing stage by stage, and when we have reached the end of our journey we shall still have to eradicate the actual causes of war.

I was glad to hear in the Third Committee M. Jouhaux, Secretary-General of the French Confederation of Labour, say with all the authority lent by the fact that in his person the working classes are represented here for the first time : " The next, the final task will be, not to build the machinery of peace, but to uproot the causes of war themselves, and more especially all the different economic causes which in times of stress have cast their cold shadow upon us from afar, as a warning and a lesson to the peoples of the world."

When we offer the world these hopes, it is our bounden duty as delegates at once to fix their limits, to say that war cannot actually be destroyed or the menace of war be removed until the League carries its task into the economic sphere, until the efforts to analyse and find remedies for the economic causes of war are imbued with its own international spirit. If we are ever to rest secure in the edifice of peace, the great and grave problems of the distribution of raw materials, of markets, of emigration and immigration, will one day have to be taken in hand by the financial and economic organisations of the League and by its Assemblies. If they are left unsolved—let us make no mistake—they will cause internal disruption which will bring down in ruins the fabric we have reared.

The first Sunday of our arrival here was but a faint premonition of the day when the world, after its long vigil of hope and trust in the League, utters at last a great cry of joy and thankfulness. On the day when we set foot in Geneva, we were met by that generous hospitality which is as truly a characteristic of this country as its independence,—this country which in the days of the war appeared as a ministering angel of mercy to the wounded

in both camps. On that day every bell in Geneva, church bells and civic bells alike, rang out a welcome to us ; the grave bells that once sounded the hour of independence and the hour of the Reformation ; ethereal bells, wafting the sound of an angelus across the lake. But on the day when our work is complete, when we are past all the future stages of which the present is a mere prelude—on that day every bell in the world, the bells of all churches and of all nations, will ring out upon the air of freedom, and will carry to the skies, like a prayer breathed by humanity, those words which you have written on the border-line that severs Germany and France, on the great bell of your cathedral at Basle ; those words which, when the clouds of war were lowering, were uttered by a man whose name should be on our lips now, when we are completing the work for which he lived and died —Jaurès—" *Vivos voco ; mortuos plango ; fulgura frango.* "

Yes, it is that world-wide organisation, the League of Nations, which, carrying on the torch from the hands of those who have fallen, can truly cry : " I call the living to life, freed at last from the terrors of war ; I mourn the dead, all the dead of every clime and country, united at last in the brotherhood of the tomb ; I shatter the thunderbolts, the powers which seek to let loose upon the world the horrors of war. "

M. BRANTING,
Former Prime Minister, delegate of Sweden.

Mr. President, ladies and gentlemen — In addressing you I merely desire to express in a few words my agreement with the eloquent speeches pronounced by those who have preceded me, among whom I am happy to count political friends whose collaboration in the past have greatly valued.

In these past weeks we have worked strenuously and unceasingly for the embodiment in a common text of the bold promises contained in the resolution unanimously adopted by the Assembly

on September 6th. A complete system for the solution by pacific methods of all disputes arising between States has been built up under the very eyes of an astonished and still somewhat incredulous world.

Nothing could give greater satisfaction to the lesser States than to see the principle of compulsory arbitration realised in so complete a form — a result which not many would have dared to hope a few months ago.

Some, indeed, wonder whether the system elaborated by the Protocol is not too bold an advance, and whether it will really prove completely watertight. Personally, I venture to hope that the reaction which is bound to set in sooner or later will have only a passing effect. The establishment in the Protocol of the principle of compulsory arbitration will always remain a concrete result achieved by the Fifth Assembly.

But arbitration is only the first stage. Neither courts nor arbitrators are competent to make laws or to adapt existing rules to the new conditions of international life.

We must realise that more effective methods will have to be established for the development of international law. I was, therefore, particularly glad to remark the words of one of our most distinguished Rapporteurs when he pointed out the new work which lies before us in this field.

I have said that the Assembly has worked unceasingly, but the time has been so short that many Governments, although they have watched events in Geneva more closely than ever before, have not yet been able to examine the Protocol, which we have drawn up, with the care demanded by their responsibility towards their countries. Consequently, the resolution before us merely recommends the draft to the earnest attention of our Governments, in order that the latter may be perfectly free to examine the question and reach a decision. The Swedish Government, among others, reserves to itself such freedom of action.

The new system amounts to an organic development of the Covenant. The provisions concerning arbitration will have to be embodied in the Covenant. The provisions concerning sanc-

tions do not necessitate any amendment to the Covenant, because they are not intended to introduce new principles, but merely to render the principles of the Covenant more effective in application, above all, by determining who is the aggressor. The economic and financial sanctions have been more clearly defined than is the case in article 16 of the Covenant. As regards the other sanctions, the Protocol merely underlines their importance from the point of view of loyal and effective collaboration, and the Governments do not surrender to the Council their right to decide the manner and extent of their participation.

The system of the Protocol is therefore elastic and supple. It has been possible — and indeed it was necessary — to take into account the situations of various countries, as explained in the statements of the delegates during the discussions in the Sub-Committees and Committees. A great effort has been made to build up a system which will meet with the approval of all delegates, although they belong to countries which present every variety of geographical situation, traditional policy and material resources. In a country like my own, which has been able, thanks to her geographical situation and the peaceful aspirations of her people, to hold aloof from the conflicts which for more than a century have drained the lifeblood of Europe, an attempt to give more definite expression to the principle of international solidarity may alarm certain sections of public opinion, when confronted with this vast plan, as happened at the time of our entry into the League. Nevertheless, I am sure that our people will realise that it is possible to strengthen the bonds of international solidarity without compromising national sovereignty.

A great conference on disarmament will meet next summer, and the application of the new system will depend on the success of that conference. Accordingly the third indispensable factor in the three-fold principle of " Arbitration, Security, Disarmament " has not been deferred until some distant date, and that is one of the essential features of the new system.

Our work will now be submitted to our Governments and Parliaments. The Swedish delegation ventures to hope that the

examination of our draft will be conducted in the spirit which has characterised our work at Geneva, that is to say, in full consciousness of the vital importance and difficult nature of the work, and also with a determination to reach a positive and decisive result.

PRINCE ARFA-ED-DOWLEH,
First delegate of Persia.

Mr. President, ladies and gentlemen — The Assembly has listened to such moving speeches that I will not venture to add to their number. I merely propose to fulfil a moral duty.

This Assembly has marked a step forward in the history of man by instituting compulsory jurisdiction supported by a combined police. The progress which you have made is immense, and my thoughts revert to the first Hague Conference twenty-one years ago. when we sat side by side with our revered and noble-minded colleague, M. Léon Bourgeois.

There was at that Conference also another noble figure, who did not take his seat among the delegates, but whose ardent soul and constant inspiration hovered over the whole Conference. I refer to the great publicist, William Stead, editor of the " Review of Reviews ", who had negotiated with all the Courts of Europe to have the Hague Conference convened.

This indefatigable apostle of arbitration and peace published a daily journal of the Conference and brought the delegates and journalists together in private gatherings which have become historic. He endeavoured to embue us with his own deep enthusiasm.

At this historic moment I desire to pay a solemn tribute to this man, who a quarter of a country ago preached to us the doctrine of compulsory arbitration and an international police. He would to-day have witnessed with untold joy the triumph of his idea, and he would have been supremely happy to know that the initiative in this magnificent work had been taken by.

the Prime Minister of his own country and the Prime Minister of France. May his name be inscribed in letters of gold amongst the pioneers of the movement !

The example of William Stead should convince the younger generation that is listening to us, and all men of unprejudiced mind, that despite all obstacles and all difficulties noble conceptions of justice always triumph in the end.

Given courage, patience and perseverance, the good seed sown will always some day produce an abundant harvest.

Last year it was the painful but necessary duty of Persia to prevent, by her single vote, a dangerous attrition of the force of article 10 of the Covenant, but to-day you have all contributed to strengthen this article and article 13 by an admirable system of practical measures. Persia of all countries has reason to rejoice at this fact.

You have understood us, we understand one another. And that is the meaning of unanimity.

Mr. DANDURAND,
Minister of State, first delegate of Canada.

I do not take this platform to make any criticism, however slight, of the work of our Committees ; that work may well mark a red letter-day in the annals of humanity.

I rise simply to explain to you, in a few words, how, up to this time, Canada has regarded the problems a solution of which we have been seeking here, and to tell you the reason for her preoccupations in face of the obligations which she may be called upon to carry out.

I must first pay my tribute of admiration to the chief builders of the fine structure which has been presented to us, to the Chairmen of the two Committees who guided our work with tact and firmness, to the architects, M. Benes and M. Politis, who prepared the plans, as well as to their brilliant fellow-workers.

The three chief pillars upon which this structure has been erected—arbitration, security and disarmament—have long been

accepted and applied in my country. It may be worth while to refer to the fruits which they have yielded us, for those are the results that you are seeking here. Not only have we had a hundred years of peace on our borders but we think in terms of peace, while Europe, an armed camp, thinks in terms of war.

As to arbitration, we have put it into practice in every field, including our rights to territory. In agreement with the United States we have set up a permanent International Joint Commission, composed of three Canadians and three United States members, who are charged with the duty of regulating every difference which may arise on our frontiers, and, particularly, on the great lakes and rivers which constitute our border-line for many hundred miles.

During the past twelve years, more than a score of questions have been settled in this friendly manner between our two countries.

In the last few days, the First Committee found itself unable to conclude its work because the question of national sovereignty and the repercussion beyond the borders of one country of the exercise of rights of domestic jurisdiction, had suddenly been raised.

That Committee concluded that in the interest of world peace the League of Nations could not wholly disinterest itself in such problems. Toward the solution of similar difficulties, may I bring to your attention the views of a statesman of the United States, Mr. Charles E. Hughes, Secretary of State.

In an address which he delivered in Montreal, on September 4th last year, at the annual meeting of the Canadian Bar Association, Mr. Hughes expressed his appreciation of the work of our International Joint Commission, and he added the following suggestion, as an expression of his personal opinion, arising out of the good work of this body. This suggestion has a direct bearing on the question of domestic jurisdiction and national sovereignty :

> " While I do not undertake ", he declared, " to speak officially upon this subject, I may take the liberty of stating as my personal point of view that we should do much to

foster our friendly relations and to remove sources of misunderstanding and possible irritation, if we were to have a permanent body of our most distinguished citizens acting as a commission with equal representation of both the United States and Canada, to which automatically there would be referred, for examination and report, as to the facts, questions arising as to the bearing of action by either Government upon the interests of the other, to the end that each, reasonably protecting its own interests, would be so advised that it would avoid action inflicting injury upon its neighbour."

The Prime Minister of Canada, Mr. Mackenzie King, who was present at this meeting, at once expressed his concurrence in the suggestion. Is there not in this suggestion an intimation that the exercise of a right may be tempered by equity and conciliation ?

This, then, is the spirit in which we face our international problems.

This habit of having recourse to arbitration and to peaceful settlement has given us the feeling and assurance of complete security. On the whole of the frontier stretching from the Atlantic to the Pacific, we have not a single soldier, not a single cannon, and the three thousand men in our permanent force are certainly not a threat to the peace of the world. This, then, has been our position as regards arbitration, security and disarmament.

What is the bearing of the Protocol on these three points ?

It is my firm conviction that Canada, faithful to her past, will be prepared to accept compulsory arbitration and the compulsory jurisdiction of the Permanent Court of International Justice. Further, I believe she would be prepared to accept all the sanctions that might be imposed in case she refused to accept the decisions of the court of the arbitrators.

As to disarmament, we have already attained the ideal toward which you are striving.

There remains the question of sanctions. Prepared to accept sanctions against herself, in what measure can Canada pledge herself to impose them upon others ?

We have already demonstrated that in times of serious crisis we have a full appreciation of our internation responsibilities. Canada, in complete independence, entered the great war, out of sentiment, not out of interest or necessity, and to-day she is raising in taxes for the payment of interest on her war debt and war pensions a sum exceeding her whole annual revenues before the war. Nearly five hundred thousand men, out of a population of eight millions, crossed the Atlantic and sixty thousand of them did not return.

When the war was over, we signed at Versailles the Covenant of the League of Nations. We will be loyal to that Covenant. We are not forgetful, however, of the conditions under which we signed it. Canada was then far from thinking that she would have the whole burden of representing North America when appeals would come to our continent for assistance in maintaining peace in Europe.

The falling away of the United States has increased, in our eyes, the risks assumed, and the history of Europe in the past five years has not been such as to lessen that apprehension.

The heavy sacrifices to which we agreed for the re-establishment of peace in Europe led us to reflect on what the future might hold in store.

May I be permitted to add that, in this Association of Mutual Insurance against fire, the risks assumed by the different States are not equal ? We live in a fire-proof house, far from inflammable materials. A vast ocean separates us from Europe. Canada therefore believed it to be her duty to seek a precise interpretation of what appeared to her to be the indefinite obligations included in article 10 of the Covenant.

We besought you to make more precise the scope of the obligations flowing from this clause, in order that the geographical situation and special conditions of each State might be taken into account, and that it would appear quite clearly that our own Parliament retained the decision as to the measure of its participation in the conflict. That interpretation secured the support of the Fourth Assembly, with a single dissenting vote.

We hope that it will be possible to find, in the Protocol which is presented to us, the policy expressed in last year's resolution interpreting article 10.

I recognise that the closely elaborated plan before us forms a logical and harmonious whole, corresponding to the needs of Europe and designed mainly for application to that continent.

Our Government and our Parliament will have to consider in what measure this Protocol will meet the conditions of our country, and decide whether it can undertake to subscribe to its obligations.

We can assure our colleagues that this study will be made with the fullest sympathy and in the same spirit that has animated the members of this Assembly, who have conscientiously striven to find the most certain method of ensuring the peace to the world.

The Canadian Delegation, animated by the same sentiments, will vote for the resolution before it.

M. DE MELLO-FRANCO,
Ambassador and first delegate of Brazil.

Mr. President, ladies and gentlemen—At a moment when the Assembly is about to approve the loftiest, the noblest resolutions which have ever been laid before a meeting of sovereign States—these great resolutions on arbitration, security and the reduction or limitation of armaments — I am proud and happy to mount this platform to tell you once again that Brazil will loyally cooperate in every endeavour to bring the world final and lasting peace.

In the few years which have elapsed since its creation, the League has already achieved many valuable results. Yet though it aroused great confidence in those who had faith in the future of the human race, was there a single one, even among the most optimistic, who would have dared to hope for so speedy a realisation of his highest ideals ?

The decisive factor in this great triumph of right and justice was unquestionably the support furnished by the Great Powers. They have thereby rendered a service of inestimable value to the

cause of peace. It is a fact which must be recognised and on which all Members of the League have reason to congratulate themselves.

At the first Peace Conference, the twenty-six nations represented there entrusted to subsequent international assemblies the imperative duty of finding a solution for the grave problem of the peaceful settlement of comflicts which might arise between nations. Since then this problem has become the chief preoccupation of mankind, and an earnest endeavour has been made to discover a formula which would safeguard every country's supreme right of self-defence and at the same time inspire real confidence in a collective guarantee to be afforded by the assurance of equal treatment before a single judicial authority.

The second Peace Conference made considerable progress towards a solution by drawing up a draft convention for the establishment of a permanent court of justice, but it was unfortunately impossible to reach agreement upon the composition of the court.

It was left for the first Assembly of the League in 1920 to reap the glory of overcoming the great difficulty which had led to the breakdown of the attempt of 1907. I have no need to remind you that that Assembly drew up the Statute of the Permanent Court of International Justice. But the final triumph belongs to the fifth Assembly, and is expressed by the approval, which you are about to signify, of the Protocol recognising the jurisdiction of the Permanent Court of International Justice as compulsory *ipso facto* and without any special convention.

This development is in a large measure the outcome of the preparatory work done by the Institute of International Law, the International Law Association, the Inter-Parliamentary Union at Berne, the International Bureau at Brussels and the Pan-American Conferences.

It is also due to the work of the great apostles of peace, the foremost of whom, among those that are dead, is the historic and unforgettable figure of President Wilson. Happily we still have among us another noble figure to represent these apostles, M. Léon Bourgeois, that venerable crusader whose tireless and ever buoyant energy has never known a moment's discouragement.

We are also indebted for what has been achieved to the members of the First and Third Committees, and particularly to their Chairmen and Rapporteurs, Sir Littleton Groom, M. Politis and M. Benes, who have displayed so much tact and such a sense of diplomacy in conducting the memorable discussions of these Committees in an atmosphere of peace which promoted the attainment of really constructive results.

The attitude of the Brazilian delegation during the preparation of the drafts which are now before the Assembly has always been dictated by a steadfast desire for peace guaranteed by justice, but we have at the same time been constantly animated by the wish to reconcile any differences of opinion which might arise between the representatives of the different States during the discussion of these complex problems.

Thus, the compromise reached by the delegations as regards conflicts left by international law to the exclusive jurisdiction of one of the parties met with the full support of my distinguished colleague, M. Raoul Fernandes, who rightly regarded article 11 of the Covenant as embodying that great spirit of concord which should animate the whole system created by the Covenant. Under this article the Council and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations.

As you know, ladies and gentlemen, arbitration and peace have been long established on the American continent. The frontiers which separate the countries of America are in point of fact merely geographical terms intended to determine the sphere of jurisdiction of each country in its own territory. But all American countries are inspired by the same ideals, all have the same conception of morality.

The contribution we have made towards the great triumph of to-day is to be attributed mainly to this community of sentiment, the result of the endeavour of a common aspiration inspired for a whole century by a sense of the brotherhood of man.

Brazil is deeply imbued with this American feeling of confidence in the law. Our people have been trained to respect the fundamental dogma of the juridical equality of States.

For these reasons I have great pleasure in informing you that Brazil will vote for the conclusions proposed by the First and Third Committees.

M. COMNENE,
Minister plenipotentiary in Switzerland, delegate of Roumania.

Mr. President, ladies and gentlemen — Roumania, who has experienced in the course of her history all the horrors of invasion and aggression, and who has now achieved her national unity, aspires more ardently than ever to peace.

Roumania has no territorial ambitions ; her one desire is to live at peace with all nations, to respect their rights and to co-operate with them in the urgent work of reconstruction. She has therefore the greatest satisfaction in approving the work accomplished by the Fifth Assembly.

That work is perhaps not perfect — no one can claim that — but it must be regarded as constituting a very important step towards the ideal of universal brotherhood which is the irresistible tendancy of mankind.

In the conviction that the disarmament conference will find equitable means of reconciling the necessity of reducing armaments with the requirements of national security, the Roumanian delegation has the honour to vote in favour of the resolutions which have been laid before the Fifth Assembly.

M. SKRZYNSKI,
Minister for Foreign Affairs, first delegate of Poland,

Mr. President, ladies and gentlemen — The Protocol for the Pacific Settlement of International Disputes is now before us and awaits our approval.

The work accomplished during the past few weeks has been truly remarkable. It received its impulse from the Franco-

British agreement, it was born of the untiring efforts of the representatives of all the nations assembled here, and it was inspired by the love of peace and by faith in the brotherhood of man. It is the result of energy and lucidity of thought. These are the claims of the present Protocol to greatness, these are the guarantees of its permanence.

We shall bear home with us, along with the written text, this deep-seated feeling, which will ever be the most forceful interpretation of that text.

On behalf of the Polish delegation I particularly wish to say how deeply and forcibly we were impressed by those earlier debates at which the two Prime Ministers gave a powerful inspiration to the community of States we represent, and hand in hand set out upon the road on which we have confidently followed in their footsteps.

I also wish to say on behalf of my delegation that we will long remember the discussions that followed, in the course of which we had the privilege of associating with so many men conspicuous by their talents and intellectual ability. I will not refer to any by name, for our thanks and admiration go out to all alike. Their work, which is of the same grand proportions as their genius, will endure as the achievement of the great constructive force of international solidarity which is the only guarantee of peace.

There is one name, however, which I cannot pass over in silence. I wish to pay a tribute to a great man, who has inspired all our work and whose noble spirit is reflected in every sentence of the Protocol — which, after all, is nothing more than a continuation and development of the Covenant. At this moment, when we are placing the final touches on a great work of peace, it is my duty to voice the inmost feelings of the Polish nation by mentioning a name which will be inscribed on the portals of the temple of peace, a name which generations yet unborn will never speak without emotion, and which will be worshipped by my country with grateful hearts — the name of Woodrow Wilson.

Ladies and gentlemen, I have the honour to speak here on behalf of Poland, a country whose history goes back over a

thousand years, a country which has many times in the past deserved well of humanity, and which has suffered the horrors of partition, a country threatened and exposed because it was surrounded by Great Powers whose tradition it was to despise democracy and freedom. Poland is still threatened, still in danger. That has been said again and again. But I must tell you why she is threatened, and I beg you to try and realise the truth of it. The reason is that on the marches of Eastern Europe she is the outermost, the most exposed stronghold of democracy.

I wish on behalf of my Government to make the following declaration. The Protocol which is before us is a document of immense importance, which lays the foundations of peace on the basis of security, founded in its turn on the respect for the law of treaties and of the territorial integrity of States. By establishing compulsory arbitration it condemns every war of aggression as an international crime. I am proud and happy to state that, on behalf of the Polish Government, I will sign the Protocol, wishing thereby to collaborate with you in setting up this grand monument achieved by the mind of man, which is to guide the world towards the realm of a higher life and a higher civilisation.

M. GUANI,

First delegate of Uruguay.

Mr. President, ladies and gentlemen—the delegation of Uruguay desires to state its profound admiration and complete approval of the magnificent results now submitted to the Assembly, which have been attained owing to the skilful co-operation and conciliatory spirit of the members of the First and Third Committees.

We also feel that homage is due to the representatives of those Powers which, by the greatness of their past achievements, the vitality of their traditions and the splendour of their civilisation, have at all times had so decisive an influence on the destinies of mankind. At a moment when new vistas of international concord

and solidarity are opening before our eyes, these Powers have been able to overcome, in the cause of peace, all those divergencies of interests which might have prejudiced the success of our common cause.

The States of Latin America cannot and will not remain indifferent to the magnificent effort achieved by the Fifth Assembly of the League to endow the world with a living and effective legal and political instrument, which will safeguard peace, preclude the possibility of war and brand aggression as an international crime.

The country which I have the honour to represent will, I am convinced, accept with the greatest satisfaction the Protocol of Peace which we have elaborated, and my Government will hasten to give it its full approval and will aspire to the honour of being one of the first to sign it.

M. TAI TCHENNE LINNE,
Minister Plenipotentiary at Stockholm, delegate of China.

Mr. President, ladies and gentlemen, upon receiving the final draft of the Protocol, the Chinese delegation immediately communicated it to its Government for an opinion. Unfortunately, however, owing to our country's remote position and to lack of time, we have been unable to consult our Government as fully as we would have wished.

I desire, however, to state that the Chinese delegation is prepared to vote without any reservation for the draft resolution submitted to the Assembly. It hopes that the vote will be unanimous in order that public opinion may fully appreciate the value of the work done by the First and Third Committees, which has been admirably expounded by the two distinguished Rapporteurs.

We rejoice that we are able to take part in this great and universal manifestation of the sentiments of solidarity, peace and justice, sentiments that have never before received such solemn and moving expression.

M. VILLEGAS,
Former Prime Minister, delegate of Chile:

Mr. President, ladies and gentlemen — The Chilian delegation wishes to join in the tribute that has been paid by the representative of other Powers to the magnificent work achieved by the fifth Assembly of the League.

It notes with genuine satisfaction the favourable reception which has been accorded to the Protocol for general compulsory arbitration submitted by the First and Third Committees.

The draft Protocol and the report of those admirable craftsmen, M. Politis and M. Benes, which will serve as an authoritative commentary thereon, conform in all respects to those principles by which my country has always been guided in the field of arbitration.

I wish, therefore, to declare that the Chilian delegation will enthusiastically adhere to the draft resolution submitted by the First and Third Committees.

Personally, I firmly believe that the Protocol will ere long become a pledge to which the whole world will subscribe, and which, if it does not kill war, will at least pronounce the doom of any future aggressor.

Mrs. SWANWICK,
Substitute delegate of the British Empire:

Mr. President and fellow delegates — I feel very deeply het kindness and courtesy of the President and of my fellow delegates in allowing me to say a very few words. It is perhaps due to the fact that no woman has spoken on this subject at this Assembly, and that we have the classical privilege of the last word. At the same time, ladies and gentlemen, it would be immodest in the extreme for one woman to attempt to speak for all women. There is always a danger, as every woman in this hall knows, of people saying, when a woman speaks that she speaks for all her sex. We

differ, gentlemen, as much as you do, though perhaps no more.

I wish to appeal to you, however, in a way that I think perhaps no woman would contradict, and I believe in my heart no man either. I would appeal to you in the words of the speech that I think moved me more than any I have heard here, that of M. Paul Boncour, in which he said that you had been making a great machine. It is a formidable and a complex machine, and it will depend entirely upon the spirit that moves that machine whether it is a machine for good or for evil.

We have listened and have taken part—women as well as men—in the discussion and study of this difficult problem. We are going back to our respective countries, and we shall have to explain the scheme we propose ; we shall have to explain to the workers of the world its provisions and its possibilities, and also its dangers. We must get the adherence of the workers of the world if we are to make this an engine for good.

In one way, I am not afraid to speak as a woman, because modern life has shown us a few women who have looked into the future and realised the great responsibility of women. We have had women who have suffered the very worst that women can suffer in the loss of their dear ones, but who have yet appealed against revenge and pleaded for reconciliation. We have had women like the mother of Rathenau, who appealed that there should be no vengeance for the loss of her son. We have had a wife like Signora Matteotti, who made the same appeal, that men should not revenge the wrong done to her. We English are proud of having, among our patriotic women, Nurse Edith Cavell, who said, in words which should be engraved in letters of gold on her statue (but which unfortunately are not) that " Patriotism is not enough ".

We have a great responsibility. You, who are the representatives of Governments all the world over, have to speak and act for the dumb millions of the world, and the responsibility that falls upon you, so that there shall be no disillusionment in this matter, is tremendous. If, when this great engine is perfected, it is not used as it is intended to be used by you who have made it

here, for impartial judgments, you will lose the faith and the confidence of the common people all the world over in the reality of the League of Nations.

At last we are told that arbitration is going to take the place of war ; at last we are told that security is coming to us, and I hope that that security will be a security of a very different order from that which women have been promised by men all down the ages. Do not you think that Hector told Andromache that he was protecting her ? Do not we remember that throughout all the World War and the years that have followed it the cry of Astyonax has rung in our ears all the world over : "Remember that when you turn your arms against each other, my brothers, the first victim is the child ".

V

FINAL RESOLUTIONS ADOPTED BY THE FIFTH ASSEMBLY

on October 2nd, 1924

I

1. THE ASSEMBLY,

Having taken note of the reports of the First and Third Committees on the questions referred to them by the Assembly resolution of September 6th, 1924,

Welcomes warmly the draft Protocol on the Pacific Settlement of International Disputes proposed by the two Committees of which the text is annexed to this resolution, and

DECIDES :

(1) To recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol ;

(2) To open immediately the said Protocol in the terms proposed for signature by those representatives of Members of the League who are already in a position to sign it and to hold it open for signature by all other States ;

(3) To request the Council forthwith to appoint a Committee to draft the amendments to the Covenant contemplated by the terms of the said Protocol ;

(4) To request the Council to convene an International Conference for the Reduction of Armaments, which shall meet at Geneva as provided by the following stipulations of Article 17 of the draft Protocol :

> " In preparation for the convening of the Conference, the Council shall draw up, with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments which shall be laid before the Conference and be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.
>
> " If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained. "

(5) To request the Council to put into immediate execution the provisions of Article 12 of the draft Protocol.

2. THE ASSEMBLY,

Having taken cognisance of the report of the First Committee upon the terms of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice ;

Considering that the study of the said terms shows them to be sufficiently wide to permit States to adhere to the special Protocol, opened for signature in virtue of Article 36, paragraph 2, with the reservations which they regard as indispensable ;

Convinced that it is in the interest of the progress of international justice, and consistent with the expectations of the opinion of the world, that the greatest possible number of States should, to the widest possible extent, accept as compulsory the jurisdiction of the Court,

RECOMMENDS :

States to accede at the earliest possible date to the special Protocol opened for signature in virtue of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice.

II

1. The Assembly recommends the Council to place the question of Regional Agreements for the Reduction of Armaments on the agenda of the International Conference for the Reduction of Armaments.

2. Whereas the majority of the States which have replied have stated that, with certain exceptions, they have not exceeded the expenditure on armaments shown in their last budgets, and whereas the recommendations addressed to

the Governments relates to the period which must elapse before the meeting of the International Conference for the Reduction of Armaments, which is to take place next year :

The Assembly does not consider it necessary to repeat the recommendation regarding the limitation of expenditure on armaments, as this question is to be placed upon the agenda of the International Conference for the Reduction of Armaments.

3. The Assembly is of the opinion :

1. That another technical conference on naval disarmament is unnecessary.

2. That the question of naval disarmament should be discussed as part of the general question of disarmament dealt with by the International Conference proposed in the resolution of September 6th, 1924, adopted by the Fifth Assembly, and that it rests with the Council to settle the programme.

4. The Assembly requests the Council, in preparing the general programme of the Conference for the Reduction of Armaments provided for in Article 17 of the Protocol, to consider the advisability of including in that programme the following points :

1. General plan for a reduction of armaments in accordance with Article 8 of the Covenant, in particular :

(*a*) Basis and methods of reduction (budget, peace-time effectives, tonnage of naval and air fleets, population, configuration of frontiers, etc.).

(*b*) Preparation of a typical budget for expenditure on armaments.

2. Special position of certain States in relation to the reduction of armaments :

(*a*) Temporary reservations by countries exposed to special risks ;

(*b*) Recommendation of regional agreements for the reduction (or limitation) of armaments.

3. Recommendation of the establishment of demilitarised zones (Article 9).

4. Control and investigation of armaments in the contracting States.

The Assembly also requests the Council to instruct the competent organisations of the League to examine the schemes relating to the above questions which have already been submitted to the Third Committee, or which may subsequently be received by the Secretariat, and to take them into consideration in preparing the programme of the Conference.

VI

SIGNATORIES OF THE PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Up to October 31st, 1924, the Protocol for the Pacific Settlement of International Disputes had been signed by the following States :—

Albania
Belgium
Greece
Latvia

Brazil
Bulgaria
Chile
Czechoslovakia
Esthonia
France
Paraguay
Poland
Portugal
Kingdom of the Serbs, Croats and Slovenes

The Protocol has been ratified by Czechoslovakia.

VII

SIGNATORIES OF THE PROTOCOL RELATING TO ARTICLE 36 OF THE STATUTE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Up to October 31st, 1924, the following States had signed the Protocol relating to Article 36 of the Statute of the Permanent Court :—

Austria
Brazil
Bulgaria
China
Costa-Rica
Denmark
Dominican Republic
Liberia
Lithuania
Luxemburg
Norway
Panama
Netherlands
Portugal

Esthonia
Finland
France
Haiti
Salvador
Sweden
Switzerland
Uruguay.

VIII

RESOLUTION ADOPTED BY THE COUNCIL ON OCTOBER 3rd, 1924

1. With a view to the preparation of the Conference for the Reduction of Armaments, the Council decides to form itself into a Committee. The representatives on the Council who consider that it will not be possible to attend the Committee in person will, as soon as possible, send to the Secretary-General the names of their substitutes on this Committee.

The Committee will hold its first meeting on November 17th, [1] in order to draw up a general programme of the work connected with the application of Article 12 of the Protocol and with the reduction of armaments.

The Governments of the States represented on the Council are requested to give their representatives on the Committee the necessary instructions in order that the general lines of the programme may be laid down during its meeting of November 17th. The Secretary-General will invite the Governments of the States Members of the League not

[1] The meeting of the Preparatory Committee was adjourned. The Council, at an extraordinary session held at the end of October, at Brussels, decided to draw up a general programme at its December session.

represented on the Council to forward through him to the Committee any suggestions which they may think useful with a view to the preparation of this programme.

2. The Secretariat is requested to collect the data necessary for the economic and financial investigations relative to the application of Article 12 of the Protocol, and is authorised to distribute these data to the competent organs of the League (Economic and Financial Organisation and Transit Organisation) with a view to the work which will subsequently be required of them by the Committee. The Secretariat will obtain information from the official documents at the disposal of the League or from documents which might, if necessary, be furnished by the Governments.

3. In conformity with the Assembly resolution, and in order to assist the Committee in co-ordinating the preparatory work for the Conference, the Temporary Mixed Commission shall be re-organised and shall take the name of the Co-ordination Commission, and be composed as follows :

(a) The Committee of the Council (ten members), assisted by :

(b) The President and one member or two members of each of the three Organisations, Economic, Financial and Transit (six members) ;

(c) Six members appointed by the Permanent Advisory Commission (six members) ;

(d) Two members of the Employers' Group, and two members of the Workers' Group of the Governing Body of the International Labour Office, appointed by the latter (four members).

(e) If considered advisable, a certain number of experts—jurists and others—appointed by the Council.

The Secretary-General is requested to invite at a suitable moment the above-mentioned organisations to appoint theri representatives.

IX

ANNEXES

1) Article 36 of the Statute of the Permanent Court of International Justtce

Article 36. — The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.

The Members of the League of Nations and the States mentioned in the Annex of the Covenant may, either when signing or ratifying the Protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning :

(a) The interpretation of a treaty ;

(b) Any question of international law ;

(c) The existence of any fact which, if established, would constitute a breach of an international obligation ;

(d) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

2) Relevant Articles of the Covenant

Article 8. — The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to warlike purposes.

Article 10. — The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

Article 11. — Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

Article 12. — The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration *or judicial settlement* or to enquiry by the Council and they agree in no case to resort to war until three months after the award by the arbitrators *or the judicial decision*, or the report by the Council.

In any case under this Article the award of the arbitrators *or the judicial decision* shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

Article 13. — The Members of the League agree that, whenever any dispute shall arise between them whi h they recognise to be suitable for submission to arbitration *or judicial settlement*, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration *or judicial settlement*.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration *or judicial settlement*.

For the consideration of any such dispute, the court to which the case is referred shall be the Permanent Court of International Justice, established in accordance with Article 14, *or any tribunal agreed on by the parties to the dispute or stipulated in any convention existing between them.*

The Members of the League agree that they will carry out in full good faith any award *or decision* that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award *or decision*, the Council shall propose what steps should be taken to give effect thereto.

Article 14. — The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Article 15. — If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration *or judicial settlement* in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute

and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the Members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the disputes provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties

to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than the Representatives of one or more of the parties to the dispute.

Article 16. — Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

Article 17. — In the event of a dispute between a Member of the League and a State which is not a Member of the League, or

between States not Members of the League, the States or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the Council shall immediately institute an enquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

Article 19. — The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

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Revised Edition

THE LEAGUE OF NATIONS

THE REDUCTION OF ARMAMENTS

and the

ORGANISATION OF PEACE

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June 1928.

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THE REDUCTION OF ARMAMENTS AND THE ORGANISATION OF PEACE

INTRODUCTION

I. — Character and scope of work on the reduction and limitation (1) of armaments.

The problem of the reduction of armaments is dealt with in a special article of the Covenant, and its solution is considered by many to be one of the fundamental duties of the League. It has been studied by the League ever since its creation. More than any other question, it has occupied the attention of the annual Assemblies; on many occasions the entire interest of the debate has centred on it; and every year, technical commissions have met for many weeks to study it. Today, the bodies dealing with the reduction of armaments and relevant questions occupy an important place in the general organisation of the League. They include representatives of the greatest possible number of States Members and of the more important non-Members of the League.

The League's work on the problem is directed by Government representatives. Valuable assistance has been given by experts selected by the Council. On several occasions representatives of the Governing Body of the International

---

(1) Since the Assembly of 1923, the word " limitation " has been used in conjunction with the tern " reduction of armaments ", the Latin-American representatives having pointed out that for their countries the question is one of limitation rather than of disarmament, The Assembly considered that the situation of South-American States and other similar situations should be taken into consideration when preparing a plan for the reduction of armaments.

Labour Office (Workers and Employers Groups) have cooperated. A special section of the Secretariat ensures the preparation and execution of the necessary work.

Despite the magnitude of the League's effort and certain results obtained, some impatience has been manifested with regard to the execution of Article 8 of the Covenant, and there has also been some criticism of the delay in convoking the general Conference for the Limitation and Reduction of Armaments for which the League organisations are preparing a Draft Convention.

This pamphlet gives an account of what the League has done and of the political and technical reasons which have proved an obstacle to the conclusion of the preparatory work.

The formula, "Arbitration, Security and the Reduction of Armaments", has constituted the basis for a detailed and exhaustive study of the possibility of providing the necessary conditions for success. The enquiries conducted on arbitration and conciliation procedure originated in the League's endeavour to fulfil its engagements under Article 8 of the Covenant, and it is fair to say that one of the results has been to develop the application of these methods in international relations.

The practical application of the principles of mutual security which form the basis of the Covenant has also been the subject of constant study by the Council, the Committees which it has constituted, and the technical organisations of the League. It has led to the adoption by the Council of regulations to facilitate the application of Article 11 of the Covenant, and to safeguard the peace of nations. The doctrine of the Council in regard to the prevention of disputes is founded, to some extent, on the debates on the reduction of armaments.

The Advisory Committee on Communications and Transit has been entrusted with a far-reaching enquiry into League

communications in times of emergency (communications by rail, by air, by wire and by wireless). The Economic Committee has cooperated in this work, and the Financial Committee has drawn up proposals concerning financial assistance for States attacked.

Finally, the technical problem of the limitation and reduction of armaments has been thoroughly explored in all its aspects (military, naval and air). The preliminary conditions for the conclusion of any agreement on the subject are now known to the League and the time passed in this work has not been lost.

Questions concerning armaments are treated with a publicity unknown before the war. Certain national laws have been amended so as to take account not only of the Covenant, but also of the work actually being done at Geneva. The Members of the League have been called upon to contract new engagements with regard to chemical warfare and the trade in arms. Experience has, nevertheless, shown that all these problems are interdependent. It is only when a solution has been found for the problem as a whole that the partial steps already taken will have their full effect; yet at the same time it is the merit of these partial steps that they facilitate and promote the solution of the whole.

It may be added that the disarmament problem has been for the League a constant and powerful challenge to work. In various fields the results are already considerable. They have penetrated beyong the field of the League's activity, strictly speaking, and have influenced international politics as a whole.

II. — The Covenant of the League of Nations.

In its first Article the Covenant of the League of Nations states that, to be admitted to the League, a new Member must, amongst other things, accept such regulations as may

be prescribed by the League in regard to its military, naval and air forces and armaments.

The obligations of States Members regarding the reduction of armaments are defined in Article 8.

I. — Article 8 of the Covenant.

The first paragraph reads :

> The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

Thus, at the beginning of the article, are found some of the conditions of the problem which the Committees and various League organisations have had to take into consideration.

a) Accession to the Covenant implies recognition of the fact that the maintenance of peace requires a reduction of national armaments to a certain minimum.

b) This minimum must be consistent with national safety. This entails the obligation to take account of the special circumstances of various States Members.

c) The minimum must also be adequate for common action in case of necessity, with a view, to the enforcement, of international obligations.

In brief terms the first paragraph of Article 8 contains almost all the principles which have guided the League's work on the reduction of armaments. It lays special stress upon two new and essential factors which, in the opinion of the authors of the Covenant, are of a nature to enable effective action to be taken for the reduction of armaments, action which was almost impossible before the war owing of the absence of international organisations :

a) By reducing its armaments, each State contributes

to the maintenance of peace, and its security is increased in proportion to the reductions agreed to by its neighbours in particular, and by other States in general;

b) The possibility of joint action is contemplated. This gives each Member an additional guarantee based upon the observance of the provisions contained in other Articles of the Covenant whose main object is the maintenance of peace.

Paragraphs 2 and 3 of Article 8 define as follows the rôle of the Council :

> The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.
>
> Such plans shall be subject to reconsideration and revision at least every ten years.

The Council is called upon to prepare plans for a reduction of armaments, but the final decision must be ratified by Governments. Paragraph 2, strengthening the passage of the first paragraph concerning national safety, makes a special mention of the geographical situation and the particular circumstances of each State, leaving to the Council the choice of the suitable means to prepare plans for a reduction of armaments. In order to adapt these plans to any new conditions which may arise provision is made for periodical reconsideration.

Paragraph 4 places the Members of the League under an obligation not to exceed the limit of armaments fixed, without the consent of the Council, once the plans have been adopted. For Members of the League, therefore, an armaments race is prohibited. They are given additional security by a guarantee that other members may not increase their military forces. Secret military preparations would constitute a violation of the Covenant and would,

accordingly, justify an appeal to the League of Nations. This paragraph reads as follows :

> After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The following paragraph deals with the private manufacture of munitions and war material :

> The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

Finally, paragraph 6 provides that Members of the League shall place their relations on a new footing and put an end to secret military preparations :

> The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes, and the condition of such of their industries as are adaptable to warlike purposes.

II. — Article 9.

> A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles 1 and 8, and on military, naval and air questions generally.

At one of its first sessions in Rome, on May 17th, 1920, the Council decided to set up the organisation contemplated under Article 9, namely, the Permanent Advisory Commission for Military, Naval and Air Questions. This body consists of the technical delegations of each of the countries

represented on the Council. The delegations include a naval, a military and an air representative. The Commission is divided into three sub-Commissions dealing respectively with military, naval and air questions.

In addition to the problems raised in Articles 1 and 8 and those arising from the application of the Covenant in general, upon which the Council can consult the Commission, the treaties of peace have conferred upon the League a duty on the subject of which the Council has sought the advice of this Commission, namely, the so-called right of investigation. These treaties all contain a section of military, naval and air clauses, whose preamble recalls the intention of the signatories of the treaties to prepare a limitation of the armaments of all nations (1). The final article of the section, which is the same in all the treaties, confers upon the Council a right of investigation which the Treaty of Versailles defines as follows :

> So long as the present Treaty remains in force... undertakes to submit to any investigation which the Council of the League of Nations, acting if need be by a majority vote, may consider necessary.

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(1) " In order to render possible the initiation of a general limitation of the armaments of all nations... undertakes strictly to observe the military, naval and air clauses which follow. "

PART I

PREPARATION OF A GENERAL PLAN FOR THE REDUCTION AND LIMITATION OF ARMAMENTS

CHAPTER I

Enquiry as to the Principles upon which a Reduction of Armaments should be based.

I. First enquiries
Creation of the Temporary Mixed Commission.

At its very first meeting in 1920, the Council of the League of Nations took up the questions arising out of Article 8 of the Covenant and, immediately after the constitution of the Permanent Advisory Commission, asked it to undertake certain preliminary technical work. The question was raised as a whole at the First Assembly (November-December 1920). The general conclusions of the debate revealed the intricacies of the problem and the necessity for systematic organisation if the League were to deal with it with any chance of success.

The First Assembly adopted a report recognising that a comprehensive scheme of disarmament, based on a thorough feeling of trust and security as between nation and nation, could not be looked for at once. After setting forth the obstacles which were still in the way of the enforcement of Article 8, the Assembly recognised that the work must proceed by successive stages. Meanwhile it drew the attention of the Council to the possibility of a budgetary limitation. It proposed that it should submit to Governments a proposal

to agree not to exceed, for the two following financial years, the sum total of expenditure for the military, naval and air services of the budget then in question. To this proposal there was a series of interesting replies from Governments, many of them affirmative. The proposal itself was taken up again with various modifications by the following Assemblies, in particular, by that of 1924, as a temporary precaution designed to avoid any increase of armaments pending the application of a general plan of reduction.

The First Assembly also noted the general desire of Members of the League to lighten as far as possible their armaments burden. Referring to Article 8 of the Covenant and the Preamble to Part V. of the Peace Treaties, it associated itself with the pronouncement of the Supreme Council of the Allied Powers which, on March 8th of the same year, had drawn attention to the importance of a limitation of armaments through the agency of the League of Nations in order to diminish the economic difficulties of Europe. The importance of such a step had also been recognised by the Brussels Financial Conference which had closed shortly before.

The Assembly asked the Council to push forward its study of the questions raised by Article 8, in particular, by inviting the Permanent Advisory Commission to complete its technical work on the existing state of armaments, by improving the organisation of the Secretariat and by setting up machinery for the verification of the information interchanged in accordance with Article 8.

In view of the wide ramifications of the problem, with its inherent political and other difficulties, the Assembly asked the Council to set up a new advisory organisation with the necessary competence to study the questions to be dealt with as a whole. This organisation was to be composed of persons with the requisite competence in matters of a political, social and economic nature and was to prepare for the Council

a report and proposals on the reduction of armaments as contemplated under Article 8 of the Covenant.

On February 25th, 1921, the Council gave effect to this resolution by setting up the Temporary Mixed Commission with M. Viviani as Chairman. This body included six recognised authorities in political, social and economic subjects, six members of the Permanent Advisory Commission for military, naval and air questions appointed by the latter, four members of the League Economic and Financial Commission, and six members of the Governing Body of the International Labour Office, that is, three members of the Employers' Group and three members of the Workers' Group. The Council subsequently added other specialists.

The Temporary Mixed Commission, proceeding on parallel lines with the Permanent Advisory Commission, which was dealing with the technical aspects of the question, undertook a thorough examination of the problem, and submitted, at regular intervals, comprehensive proposals to the Council and the Assembly. This Commission continued to exist until the Assembly of September 1924.

2. Technical and political factors of the reduction of armaments.

Apart from the work they undertook on the trade in arms and munitions (described later on), the main task of the two Advisory Commissions from 1921 onward was to define the basic principles of a reduction of armaments, the scope of such a reduction, and the special circumstances of States Members of the League, in particular of European States.

Their first enquiries led to conclusions which enabled the Assembly of 1921, by adopting the majority of the proposals of the Temporary Mixed Commission, to drawn up a general programme of work. It proposed to the Council :

a) to institute a statistical enquiry into the armaments of various countries bearing upon the years 1913 and 1921;

b) to invite Governments to give certain information on their military and naval budgets, their general budget, their laws for the re-organisation of land and sea forces;

c) to invite Governments to furnish a statement of any considerations they might wish to urge in regard to the requirements of their national security, their international obligations, their geographical situation and special circumstances.

They were also asked to communicate what peace and military forces they considered indispensable for the preservation of domestic order.

The question was thus clearly defined.

The enquiries instituted by the League, the results of which were submitted to the Advisory Commission in 1922, revealed the essential features of the problem, and the connection which exists between the notion of mutual guarantee and that of the reduction of armaments.

3. Technical complexity of the question.

The effect of a scheme submitted by one of the members of the Temporary Mixed Commission, for a treaty on reduction of armaments based on the precedent of the Washington Naval Conference, was to throw further light upon the scope and importance of the technical studies required. The author of this scheme, Lord Esher, proposed that, as had been done at Washington for naval armaments, a common measure should be fixed for the comparison of land forces, and the armaments assigned to the various Powers should be represented by ratio. As a unit of military and air forces he had suggested 30,000 men.

This scheme was in the end rejected for technical reasons advanced by the Permanent Advisory Commission which con-

sidered that it was difficult, if not impossible to arrive at a common measure for the comparison of the peace time forces of the various States. It was of opinion that Lord Esher's plan took into account only the factor of effectives, whereas the other factors which constitute the unit, such as cadre, material and the budget should also be taken into consideration.

Each of these constituent factors varies from one State to another, in number and in value, and varies within the same State in accordance with the organisation of each, and according to the purpose for which it exists.

From the point of view of national security, long-service soldiers have a greater value than conscripts. The former are able to serve as cadres, while the latter are not. From the point of view of the maintenance of internal order, on the other hand, they are of equal value. Furthermore, the total number of men may be temporarily increased by reservists undergoing their period of training. In consequence, there is variation in number and in value from the point of view both of peace and of war.

Similar variations exist in regard to material which differs in character and type. This depends on the national organisation, on the resources of industry, and of man-power, etc.

The expenditure on armaments also varies from one country to another and within the same country, according as it is concerned with voluntary or conscript personnel or with material, or with the difference in prices at home, or with the variations in the value of gold, etc. etc.

If such variations are to be found in each factor, how can it be hoped to obtain any kind of stable combination of these variable factors? It appears to be impracticable.

To conclude, the Permanent Advisory Commission considered that although Lord Esher's scheme might logically be applied to vessels which require a long time to construct, and even to lighter-than-air machines of large dimensions,

it did not provide a practical basis for the estimation or comparison of air and land forces. It noted, nevertheless, that from a military point of view the estimation of the forces on a peace footing, was possible of attainment by technical experts, though not by the application of a mathematical formula. The Permanent Advisory Commission would be able, if requested to do so by the Council, to estimate the military forces of individual States on the basis of the information supplied to it by these States.

Lord Esher's scheme was also rejected by the Temporary Mixed Commission.

4. Mutual Guarantee and the Reduction of Armaments.

At the same time the Temporary Mixed Commission continued its investigations in another direction. It had received many replies from Governments on the requirements of their national security, international obligations, geographical situation and special conditions. The main conclusions arrived at were *a*) that these statements as a whole clearly showed not only the sincere desire of Governments to reduce national armaments and the corresponding expenditure to a minimum, but also the importance of the results already achieved; *b*) that there were real difficulties of a temporary or permanent nature in the way of the reduction in armaments which was universally desired. The Commission explained the technical difficulties, but made it clear in its report that the problem was to an essential degree of a political nature. It drew attention, for the first time, to the potential military forces which, in warfare between nations in arms, each State possesses below the visible surface of its peace time armaments.

It considered that, as these difficulties were political, it might be hoped that the League of Nations would be able to assist in diminishing and in finally eliminating them.

Thus the Temporary Mixed Commission directed its

efforts into a new channel which, it hoped, might lead to the solution of the political problems mentioned. It proposed to develop the system of mutual guarantee against aggression provided by the Covenant in order to enable members of the League to reduce their armaments. The debate soon centred on this question. One of the members of the Commission, Lord Robert Cecil, endeavoured to embody in four proposals the general principles of a reduction of armaments, which were adopted in the following form by the Commission : "No scheme for the reduction of armaments can be successful unless it is general. In the present state of the world, the majority of Governments could not carry out a reduction of armaments unless they received satisfactory guarantees for the safety of their respective countries; such guarantees should be of a general character. And finally, there can be no question of providing such guarantees except in consideration of a definite undertaking to reduce armaments."

In submitting these proposals to the Council and the Assembly, the Commission stated that its object was to enable States to reduce their armaments while providing them with a measure of security at least as great as that which they then enjoyed.

5. Mutual or special guarantees.

The discussions of the two Advisory Commissions prior to the 1922 Assembly revealed the existence of two divergent theses.

The technical opinions expressed by the Permanent Advisory Commis ion were quite definite as to the necessity of having a pre-established plan of defence in order that the guarantee offered in consideration of the required reduction of armaments should be effective. On these technical grounds the majority of the European countries maintained that a general treaty of mutual assistance which, by reason

of its universality, could only constitute a somewhat vague undertaking, would not be a sufficient guarantee in exchange for a reduction of armaments. Distinguishing between the successive stages of a war, they requested that special attention should be devoted to the first period during which prompt action would be necessary to prevent the total defeat of a State attacked.

This raised a question which has since come repeatedly before the League, namely, that of promptly determining the aggressor and of avoiding delay which might prove fatal to the State attacked.

In his original proposals Lord Robert Cecil had already to some extent taken account of these theses by contemplating detailed arrangements for the defence of countries, which for historical, geographical or other reasons, were in special danger of attack. But this general measure did not satisfy the supporters of immediate assistance. They maintained that as the work of the Temporary Mixed Commission aimed at developing the principles of the Covenant, it was not sufficient merely to transform the terms of Article 8 relating to the geographical situation and special conditions of each State, but that special means of action should in certain cases be placed at the disposal of the Council.

The supporters of the two adverse theses in the Temporary Mixed Commission were commonly know as the partisans of general and special treaties of mutual assistance.

6. Resolution XIV of the Third Assembly, 1922.

The first step towards reconciling the two views was taken at the Third Assembly of the League of Nations in 1922. The discussion bore on the proposals of Lord Robert Cecil, which were presented by the Temporary Mixed Commission. The Assembly did not enter into a detailed consideration of the question of guarantees. As regards the pro-

cedure, the various currents of opinion were reconciled later in the course of the debate in the Temporary Mixed Commission on the Draft Treaty of Mutual Assistance.

The Assembly, nevertheless, cleared the way for the amalgamation of the two theses. The supporters of a general treaty of mutual assistance — representatives of the British Empire and former neutrals — had as their chief spokesman Lord Robert Cecil; those in favour of special treaties were represented by the French delegate, M. Henri de Jouvenel. The principal result of this debate was the fourteenth Resolution of the Third Assembly.

This resolution laid down the principle that no scheme for the reduction of armaments could be fully successful unless it was general, and that disarmament was conditional upon guarantees of security. As guarantee, it contemplated a defensive agreement open to all countries, binding them to provide immediate and effective assistance in accordance with a prearranged plan, in the event of one of them being attacked; while recognising that the most desirable plan would be a general disarmament treaty, the Assembly admitted the possibility of partial treaties designed to be extended and open to all countries (1).

The Assembly strongly emphasised the necessity for a reduction of armaments, as the adoption of the principles governing the mutual guarantee entailed an undertaking by Governments to proceed to a general reduction of armaments. Resolution XIV reads :

> XIV. *a*) The Assembly, having considered the report of the Temporary Mixed Commission on the question of a general Treaty of Mutual Guarantee, being of opinion that this report can in no way affect the complete validity of all the Treaties

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(1) In another resolution the Assembly contemplated the possibility of regional disarmament agreements similar to those concluded by Latin-American States.

of Peace or other agreements which are known to exist between States; and considering that this report contains valuable suggestions as tot he methods by which a Treaty of Mutual Guarantee could be made effective, is of the opinion that :

1. No scheme for the reduction of armaments, within the meaning of Article 8 of the Covenant, can be fully successful unless it is general.

2. In the present state of the world many Governments would be unable to accept the responsibility for a serious reduction of armaments unless they received in exchange a satisfactory guarante of the safety of their country.

3. Such a guarantee can be found in a defensive agreement which should be open to all countries, binding them to provide immediate and effective assistance in accordance with a pre-arranged plan in the event of one of them being attacked, provided that the obligation to render assistance to a country attacked shall be limited in principle to those countries situated in the same part of the globe. In cases, however, where, for historical, geographical, or other reasons, a country is in special danger of attack, detailed arrangements should be made for its defence in accordance with the above-mentioned plan.

4. As a general reduction of armaments is the object of the three preceding statements, and the Treaty of Mutual Guarantee the means of achieving that object, previous consent to this reduction is therefore the first condition for the Treaty.

This reduction could be carried out either by means of a general Treaty, which is the most desirable plan, or by means of partial treaties designed to be extended and open to all countries.

In the former case, the Treaty will carry with it a general reduction of armaments. In the latter case, the reduction should be proportionate to the guarantees afforded by the Treaty.

The Council of the League, after having taken the advice of the Temporary Mixed Commission, which will examine how each of these two systems could be carried out, should further

formulate and submit to the Governments for their consideration and sovereign decision the plan of the machinery, both political and military, necessary to bring them clearly into effect.

b) The Assembly requests the Council to submit to the various Governments the above proposals for their observations, and requests the Temporary Mixed Commission to continue its investigations, and, in order to give precision to the above statements, to prepare a draft Treaty embodying the principles contained therein.

7. Exchange of information and statistical enquiry.

During the same period the League organisations continued their work on the exchange of information and conducted a statistical enquiry. The investigations were conducted on parallel lines and in close connection with those following upon Resolution XIV. They soon led to important results. In August 1923 the League Secretariat published in two volumes the results of a Statistical Enquiry on National Armaments, consisting of data furnished by all Governments. This finst enquiry bore on peace-time armaments and expenditure on armaments.

The Assembly of 1922 had recognised that the full military strength of States included their actual military strength expressed in peace time armaments and expenditure on national defence, and their potential military strength in which the important element was the industrial and economic power of each State, as proved by the last war.

The Assembly of 1923 decided on the proposal of the Temporary Mixed Commission that the statistical enquiry might be considered as a fulfilment of the last paragraph of Article 8 of the Covenant on the exchange of information and instructed the Secretariat to publish a military yearbook. The Assembly of 1924 asked that a special develop-

ment should be given to the part of the Year-Book dealing with industrial and economic strength capable of being used for war purposes. At the present date the Year-Book is a volume of more than 1000 pages, and is divided into three parts, dealing with (1) army and navy, (2) budget expenditure on national defence, and (3) production and exchange of products which are of importance from the point of view of national defence.

8. Reduction of naval armaments.

On February 6th, 1922, the United States, the British Empire, France, Italy and Japan concluded the Washington Naval Treaty, limiting the tonnage of their capital ships and of aircraft carriers, and limiting the standard displacement of capital ships and the calibre of their guns. The Treaty contained the clause known as the "Naval Holiday", according to which, with certain exceptions contained in the Treaty, no keel of any capital ship might be laid down earlier than ten years, to date from November 12th, 1921. During 1922 the League Commissions received several proposals for the extension of the principles of the Washington Naval Treaty to non-Signatory Powers. These schemes were carefully studied, as the conclusion of a general treaty based on the same principles as the Washington Treaty was of considerable importance for the League of Nations and the general work on the reduction of armaments. The Permanent Advisory Commission recognised, however, that the extension of this Treaty to all Powers would meet with almost insuperable difficulties. Although from a technical point of view it is easier to draw up regulations for naval disarmament than for land disarmament, the complicated political situation after the war made it difficult to apply to all States the comparatively simple standards laid down at Washington. The majority of the naval sub-commission, composed of representatives of the Signatories of the Wash-

ington Treaty, considered that the most practical basis was the *status quo*. Still, it was difficult to fix tonnage for a State created after the war, and even at Washington it had been necessary to provide certain exceptions to the general principles adopted. The *status quo* basis was hardly acceptable, either for the new States, for States recovering from the war, or for certain non-European States in a stage of development. For the purpose of further study, the Council decided, in February, 1923, to add to the naval Sub-Commission, in which there were only a few of the non-Signatories of the Washington Treaty, representatives of the Argentine, Chili, Denmark, Greece, Norway, the Netherlands, and a non-Member of the League, namely, Russia. This Sub-Commission met in Rome in February, 1924. It was able to obtain interesting information, but it did not succeed in reconciling the various points of view. Certain political questions were raised; the representative of the Union of Soviet Socialist Republics asked that the Baltic Sea should be closed to the larger vessels of non-coastal Powers, that the Black Sea should be closed, and that the Straits of Korea should be demilitarised. In a general way it appeared that the principles of the Washington Treaty limiting naval armaments on the basis of the *status quo* were not acceptable for most navies. It was impossible to meet the objections of States which considered that the scheme for the reduction of naval armaments should take account of the geographical situation and special circumstances of each State in accordance with Article 8 of the Covenant. The results of the Rome session were forwarded to Governments. The technical study of the naval problem was resumed later on a larger scale.

CHAPTER II

The Draft Treaty of Mutual Assistance.

I. Preparation of the Draft Treaty.

On the basis of Resolution XIV of the Third Assembly the Temporary Mixed Commission prepared in 1922-23 a Draft Treaty of Mutual Assistance which the Assembly submitted to Governments with certain changes.

The Temporary Mixed Commission worked on two draft Treaties, one by Lord Robert Cecil, the other by Colonel Réquin, a French member of the Commission. It also had the opinions of certain Governments on Resolution XIV and the technical reports of the Permanent Advisory Commission. It was thus enabled to enunciate the fundamental problems of the prevention of war and mutual guarantee, and propose solutions which have left their mark on the League's work up to the present day.

Lord Robert Cecil based his draft on the resolutions which he had originally submitted to the Temporary Mixed Commission. He aimed at the conclusion of a general treaty guaranteeing to a State attacked the support of all the other members of the League, with detailed provisions designed to nullify in a large measure in time of peace the effects of a threat of war. Special treaties were admitted only if the Council by a three-fourths majority decided to negotiate itself at the request of an interested State in particularly dangerous situation a supplementary agreement for the defence of the said State. This draft met the views of certain members of the Commission, nationals of States more or less opposed to definite undertakings, who felt that the conclusion of special treaties would result in the formation of rival groups of nations and in permanent political tension.

Colonel Réquin's draft was based on the opinion of the

Permanent Advisory Commission with regard to Resolution XIV. The majority of the Commission had drawn special attention to the fact that the object was to prevent war and not to bring progressively into action the forces which would carry a war a successful conclusion. It added that in no case was a State attacked to suffer invasion and that this condition assumed the existence of a mutual guarantee which could be brought into action immediately. The only form of assistance which was really effective at the beginning of a war was military, naval, or air assistance. The Commission stated further that if the assistance were to be immediate and effective, it must be given in accordance with a pre-arranged plan as laid down in Resolution XIV, and if this pre-arranged plan were to be carried out without delay, that is, without discussion, it was important that it should be made an integral part of the Treaty of Guarantee.

With regard to Lord Robert Cecil's draft, the Permanent Advisory Commission had come to the unanimous conclusion that, from a military, naval and air point of view, it did not constitute a solid basis for a scheme for the limitation of armaments. The majority of the military experts admitted that the idea combining partial agreements with general obligations was quite a happy one. An attempt might be made to discover a practical method of applying it which should be based upon the necessities of modern warfare. Thus, assistance might be organised beforehand with a degree of completeness which would vary both according to the nature of the assistance, and chronologically according to the degree of urgency, without in any way losing sight of the primary necessity of preventing the development of conflict.

The first article of Colonel Réquin's draft provided that the High Contracting Parties should mutually undertake to furnish assistance to any one of their number in case it should be the object of aggression after reducing its armaments. In Article 2 it was stipulated that to render the

general assistance provided in the first article immediately effective, the High Contracting Parties might conclude agreements establishing groups for purely defensive purposes and settle in advance the measures of assistance which they would give to each other in accordance with Article 10 of the Covenant in the event of any case of aggression which they might consider possible against any of them.

The task of the Temporary Mixed Commission in 1922 was to reconcile these two points of view and to draw up a single text.

2. The Draft Treaty.

Dr. Benes, reporting on the Draft Treaty of Mutual Assistance to the Assembly of 1923, explained that it might be regarded as the procedure which the Temporary Mixed Commission recommended to the Council for the purpose of carrying out the task entrusted to it under Article 8 of the Covenant. His definition of the rule upon which the Draft Treaty was based, was that "guarantee and disarmament are inter-dependent".

Article 1 of the Draft Treaty read as follows :

"The High Contracting Parties solemnly declare that aggressive war is an international crime and severally undertake that no one of them will be guilty of its commission." Dr. Benes pointed out that this article constituted a solemn pact of non-aggression, the spirit of which must govern the application of the Draft Treaty of Mutual Assistance.

Dr. Benes explained as follows the operation of the guarantee and of the reduction of armaments :

1. The general guarantee is established in principle and defined by the Treaty — first stage;
2. In the case of certain countries the guarantee is supplemented by special Treaties;

3. Each State establishes an estimate of the reduction which it can effect in armaments in virtue of the operation of this single or double guarantee — second stage;

4. On the basis of these estimates, the Council draws up the plan of reduction as provided in Article 8 of the Covenant — third stage;

5. After having adhered to the plan, the several States undertake to put this plan of reduction, in so far as it affects them, into operation within a period laid down in the Treaty — fourth stage;

6. When this undertaking has been given, the guarantee comes into force, and the provisions of Article 8 of the Covenant regarding disarmament are in a fair way to fulfilment.

a) *General Guarantees and Special Treaties.* — The general assistance contemplated by Lord Robert Cecil was maintained in Article 2 of the Treaty. Articles 6, 7 and 8 envisaged complementary defensive agreements by which the Signatories undertook to put into immediate execution in the cases of aggression the plans of assistance agreed upon.

In order to allay the apprehensions manifested by certain members of the Commission, these agreements, before being registered, were to be examined by the Council with a view to deciding whether they were in accordance with the principles of the Treaty and the Covenant. The Council could, if necessary, suggest changes in the texts, which would have been open, with the consent of the signatories, to any other High Contracting Party.

Attention must be drawn to this clause which presented a solution of many of the problems attendant upon special treaties. The possibility for a third party to accede to a special treaty was a new factor. Its importance was emphasised in the debates on mutual guarantee, and exemplified by the subsequent conclusion of security treaties between States whose divergent interests might have become a menace to European peace.

The Signatories of the special agreements might, in the case of aggression, execute the plan of assistance agreed upon, subject to informing the Council without delay of the measures taken. Certain delegations considered that this condition did not suffice.

b) *The prevention of war and the powers of the Council.* — As regards the prevention of war, the Draft Treaty contained several new suggestions. For the first time a League organisation proposed that in the case of a *threat of war* it might be advisable for the Council to take measures hitherto contemplated only in the case of war which had definitely broken out. These measures were the application of economic sanctions, the organisation of financial assistance and the execution of other provisions of Article 16 of the Covenant.

Article 3 provided that, should one of the High Contracting Parties judge that the armaments of any other party were in excess of the limits fixed under the provisions of the Treaty, or have cause to appear an outbreak of hostilities on account of the aggressive policy or preparations of any other State, it might inform the Secretary-General, who would immediately summon the Council. If the Council considered that there was reasonable ground for thinking that a menace of aggression had arisen it could :

(*a*) decide to apply immediately to the aggressor State the economic sanctions contemplated by Article 16 of the Covenant, the Members of the League not signatory to the present Treaty not being, however, bound by this decision, except in the case where the State attacked is entitled to avail itself of the Articles of the Covenant;

(*b*) invoke by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations;

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(*c*) determine the forces which each State furnishing assistance shall place at its disposal;

(*d*) prescribe all necessary measures for securing priority for the communications and transport connected with the operations;

(*e*) prepare a plan for financial co-operation among the High Contracting Parties with a view to providing for the State attacked and for the States furnishing assistance the funds which they require for the operations;

(*f*) appoint the Higher Command and establish the object and the nature of his duty.

c) *Case of aggression.* — Article 4 détermines the intervention of the Council and the possible intervention of all the Signatory States in case of aggression.

Should one of the Signatories become engaged in hostilities, the Council would decide, within four days of a notification addressed to the Secretary-General, which of the parties were the victims of aggression and whether they were entitled to the assistance provided under the Treaty.

In this connection the Draft forwarded to the Governments was accompanied by a commentary on the definition of a case of aggression.

This document stated that there was no definite military standard of aggression, but that it might be advisable for the Council to fix a neutral zone which the parties would be forbidden to cross, and a refusal to obey might be considered as an element in deciding which was the aggressor. It was also suggested that the Council might propose an armistice and invite the parties to submit their dispute to the Council or to the Court, and that this invitation might be accompanied by an intimation that the party which refused would be considered as the aggressor. The opinion was expressed that in the general case where aggression was preceded by a period of political tension, the Council would have been engaged in efforts to avoid war and might there-

fore probably be in a position to form an opinion as to which of the parties was really actuated by aggressive intentions.

d) *Demilitarised Zones.* — In order to facilitate the application of the Treaty any party might negotiate, through the agency of the Council, with one or more neighbouring countries for the establishment of demilitarised zones; the Council, with the cooperation of the parties concerned, might previously ensure that the establishment of the zone did not call for unilateral sacrifices from the military point of view on the part of the parties interested.

e) *Cost of intervention.* — By Article 10 the parties agreed that the whole cost of any military, naval or air operations undertaken in accordance with the Treaty and with the supplementary agreements including the reparation of all material damage caused by operations of war should be borne by the aggressor State up to the extreme limits of its financial capacity. The amount payable by the aggressor should be a first charge on the whole of the assets and revenues of that State. The repayment of any home or foreign loans concluded during hostilities would be suspended until the amount due for cost of reparations had been discharged in full.

f) *Disarmament.* — Articles 11, 12 and 13 define the disarmament obligations recognised by the Signatories. They were to undertake to inform the Council of the reduction or limitation of armaments which they considered proportional to the security furnished by the general treaty or by supplementary agreements. They further undertook to cooperate in the preparation of any general plan of reduction of armaments which the Council might propose, and to carry out this reduction within a period of two years.

It was clearly established by Articles 2 and 8 that the mutual assistance should only be given to parties which had reduced their armaments.

Such were the general lines of the Draft Treaty of 1923 which, considered by some as a "prolongation of the Covenant", aimed at a reduction of armaments and at strengthening the League's action for the prevention of war.

3. Rejection of the Draft Treaty of Mutual Assistance. Replies of Governments.

The replies of the Governments Members and non-Members of the League were received in the course of 1924. Eighteen acceded in principle, while suggesting slight changes and improvements. But, on the whole, the Draft encountered such opposition that it soon became evident that it would be impossible to bring it into force unless it were completely transformed.

The reply of the British Government, signed by the Prime Minister, Mr. Ramsay MacDonald, was distinctly unfavourable to the Draft. The most frequent objections to the Treaty may be summed up as follows :

a) While providing guarantees, the Treaty did not lay sufficient emphasis upon the fact that they entailed an reduction of armaments; in principle, the Treaty was designed to give effect to Article 8 of the Covenant, but did not automatically provide for its execution. It left it to the individual Governments to decide in what measure they could reduce their armaments, and nothing proved that such a reduction would be very considerable.

b) The treaty envisaged guarantees of a material kind while devoting insufficient attention to the development of the legal and moral elements of the Covenant.

c) The special treaties recalled the alliance system. Their inclusion in the Draft Treaty left a loophole for possible conflicts between the Council and the Governments, particularly in the event of individual assistance being given before the former had arrived at decision.

d) By its unanimity rule the Council would be seriously hampered in determining the aggressor. Should it nevertheless endeavour to do so, this would involve a delay which might enable the aggressor totally to defeat the State attacked. This danger would be extremely serious in the case of States in an unfavourable geographical situation, i. e. distant from countries which might give assistance, or with a particularly vulnerable frontier.

This last criticism was generally made by Governments which were in favour of the adoption of the Treaty but desired to strengthen the guarantees of assistance.

CHAPTER III

Arbitration, Security and Reduction of Armaments. The Protocol of 1924.

I. The question before the Assembly.

Owing to the virtually certain rejection of the Treaty of Mutual Assistance, the disarmament problem was in the forefront of international preoccupations at the opening meetings of the 1924 Assembly.

The League's effort to deal with the question had for the moment proved unavailing. However, in the first days of the Assembly, the representatives of the Governments which had rejected the Treaty expressed the desire that the work should be resumed and that an endeavour should be made to improve upon the solutions proposed. As regards methods, there were still certain differences of opinion.

From the replies concerning the Treaty of Mutual Assistance, it appeared that there was a strong current of opinion among members of the League in favour of arbitration as the necessary complement of the formula "security and reduction of armaments". Having formulated this desire, several Go-

vernments refused to go any farther. To this the supporters of the Treaty replied that arbitration would be null and void without effective sanctions. They considered that the best way to avoid the application of the sanctions provided by the Covenant was to make it so certain that they would be applied that no State would care to run the risk of incurring them. They thus maintained one of the principal theories put forward in support of the Treaty, namely, that it would be of great efficacy in preventing conflicts, owing to the proposed strengthening of the authority of the Council.

These two theories were clearly outlined at the opening meetings of the Assembly in the speeches of the British and French delegates. Mr. Ramsay MacDonald concluded his speech as follows :

> Our interests for peace are far greater than our interests in creating a machinery of defence. A machinery of defence is easy to create but beware lest in creating it you destroy the chances of peace. The League of Nations has to advance the interests of peace. The world has to be habituated to our existence; the world has to be habituated to our influence; we have to embody in the world confidence in the order and the rectitude of law, and then nations — with the League of Nations enjoying the authority, with the League of Nations looked up to, not because its arm is great but because its mind is calm and its nature just — can pursue their destinies with a feeling of perfect security, none daring to make them afraid. This is the outlook, and this is the policy by which the British Government stands and to which it invites the League of Nations to adhere.

To this M. Herriot, the first French delegate, replied :

> Arbitration is essential, but it is not sufficient. It is a means, but not an end. It does not entirely fulfil the intentions of Article 8 of the Covenant, which, if I may again remind you, are security and disarmament.
>
> We in France regard these three terms—arbitration, secu-

rity, and disarmament—as inseparable; and these three words would be but empty abstractions did they not stand for living realities created by our common will.

Arbitration, as my friend Mr. MacDonald has said, is justice without passion. In that I recognise the nobility of his mind. But justice must not be divorced from might. Might must not be left in the ruthless grasp of injustice.

2. Arbitration, Security and Reduction of Armaments.

Thanks to the work of the preceding years, it was comparatively simple to reconcile these two theories. Agreement was reached in the Assembly and the Protocol was drawn up. In submitting it to the Assembly, the two rapporteurs, Dr. Benes, and Mr. Politis, summarised the work already done, showing that the system of the Protocol had been arrived at by a logical and gradual process.

The reduction of armaments required by the Covenant and demanded by the general situation of the world to-day led us to consider the question of security as a necessary complement to disarmament.

The support demanded from different States by other States less favourably situated had placed the former under the obligation of asking for a sort of moral and legal guarantee that the States which have to be supported would act in perfect good faith and would always endeavour to settle their disputes by pacific means.

It became evident, however, with greater clearness and force than ever before, that if the security and effective assistance demanded in the event of aggression was the condition *sine qua non* of the reduction of armaments, it was at the same time the necessary complement of the pacific settlement of international disputes, since the non-execution of a sentence obtained by pacific methods of settlement would necessarily drive the world back to the system of armed force. Sentences impe-

ratively required sanctions or the whole system would fall to the ground.

Arbitration was therefore considered by the Fifth Assembly to be the necessary third factor, the complement of the two others with which it must be combined in order to build up the new system set forth in the Protocol.

Thus, after five, years' hard work, we have decided to propose to the Members of the League *the present system of arbitration, security and reduction of armaments*—a system which we regard as being complete and sound.

3. Analysis of the Protocol.

A. *Compulsory Arbitration.*

Rôle of the Council in determining the aggressor.

a) *Renunciation of war.* — Article 2 of the Protocol renounced war. In no case would a State signatory be entitled to undertake on its own initiative an offensive war against another signatory or non-signatory State which accepted all the obligations assumed under the Protocol.

b) *Compulsory jurisdiction of the Permanent Court.* — Article 3 recognised as compulsory *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in cases covered by paragraph 2 of Article 36 (1) of the Court Statute, the only reservations

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(1) The Members of the League of Nations and the States mentioned in the Annex to the Covenant may, either when signing or ratifying the protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal dispute concerning :

(*a*) The interpretation of a treaty;

(*b*) Any question of international law;

(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

allowed being indicated in the report submitted to the Assembly.

c) *Compulsory Arbitration.* — In his report M. Politis stated that compulsory arbitration was the fundamental basis of the proposed system and that it closed the "circle of protection drawn by the Covenant around the peace of the world". Henceforth no purely private war between nations would be tolerated. The system of arbitration envisaged by the Protocol was described as follows :

(*a*) It is only part of a great machinery of pacific settlement. It is set up under the auspices and direction of the Council of the League of Nations.

(*b*) It is not only an instrument for the administration of justice. It is, in addition and above all, an instrument of peace. The arbitrators must no doubt seek in the first place to apply the rules and principles of international law. This is the reason why, as will be seen below, they are bound to consult the Permament Court of International Justice if one of the parties so requests. But if international law furnishes no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

(*c*) It does not rest solely upon the loyalty and good faith of the parties. To the moral and legal force of an ordinary arbitration is added the actual force derived from the international organisation of which the kind of arbitration in question forms one of the principal elements; the absence of a sanction which has impeded the development of compulsory arbitration is done away with under our system.

In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the

intervention of the Council; in no case can it be thrown on one side thorough the ill-will of one of the disputant States. The awards to which it leads are always accompagnied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

The following articles of the Protocol concerned the working of the arbitration procedure contemplated by the Covenant.

Article 4 in particular dealt with the possibility of the Council failing to settle a dispute submitted under Article 15 of the Covenant, which did not come within the jurisdiction of the Court and in regard to which the parties had not been able to agree on arbitration. The solution proposed was that :

> Before going further, the Council must call upon the parties to submit their dispute to judicial settlement or to arbitration.
>
> It is only in the case where this appeal — which the Council will make in the manner which appears to it most likely to secure a favourable hearing — is not listened to that the procedure will acquire the cimpulsory character which is necessary to make certain the final settlement of all disputes.

There are three alternatives :

(*a*) Compulsory arbitration at the request of one of the parties;

(*b*) A unanimous decision by the Council;

(*c*) Compulsory arbitration enjoined by the Council.

This procedure made it impossible for any dispute to escape arbitration. The request of one of the parties was suffficient for the constitution of a Committee of Arbitrators, either by joint agreement or if agreement were impossible, by decision of the Council. Should the arbitrators not be jurists, they were entitled, if one of the parties so desired,

to seek the advisory opinion of the Court through the medium of the Council. In the event of neither party asking for arbitration, the Council would again examine the matter and would endeavour to draw up a unanimous report, the vote of the parties not being reckoned. In this case, its decision would be binding upon the parties signatories to the Protocol.

There remained the possibility of a disagreement among members of the Council, and here the third solution, compulsory arbitration enjoined by the Council, would intervene. The dispute would be referred to a Committee of Arbitrators, but the parties would play no rôle in its constitution. It would be for the Council to settle all the details, the composition, the powers and procedure of the Committee of Arbitrators. The only regulation with which it must comply was that in the choice of arbitrators it must bear in mind the guarantees of competence and impartiality which by their nationality, personal character and experience, such arbitrators must always furnish.

Failing a friendly arrangement, M. Politis continued, the final solution of a dispute would be certain in all cases, thanks to the system adopted, whether in the form of a decree of the Permanent Court of International Justice or in the form of an arbitral award or, lastly, in the form of a unanimous decision of the Council.

To this solution the parties are compelled to submit. They must put it into execution or comply with it in good faith.

If they do not do so, they are breaking an engagement entered into towards the other signatories of the Protocol, and this breach involves consequences and sanctions according to the degree of gravity of the case.

If the recalcitrant party confines itself to offering passive resistance to the solution arrived at, it will first be the object of pacific pressure from the Council, which must exercice all its

influence to persuade it to respect its engagements. If the Council is unsuccessful, it must propose measures calculated to ensure effect being given to the decision.

On this point the Protocol has been guided soledy by the regulation contained at the end of Article 13 of the Covenant. The Council may thus institute against the recalcitrant party collective sanctions of an economic and financial order. It is to be supposed that such sanctions will prove sufficient. It has not appeared possible to go further and to employ force against a State which is not itself to resorting to force. The party in favour of which the decision has been given might, however, employ force against the recalcitrant party if authorised to do so by the Council.

> But if the State against which the decision has been given takes up arms in resistance thereto, thereby becoming an aggressor against the combined signatories, it deserves even the severe sanctions provided in Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol.

There were one or two exceptions, contemplated in clearly specified cases, as for example, disputes relating to questions which at some time prior to the entry of the Protocol had been the subject of a unanimous recommendation by the Council, and accepted by one of the parties concerned.

The provisions of paragraph 8 of Article 15 of the Covenant concerning disputes which by international law fall within the domestic jurisdiction of a party were protected by Article 5 of the Protocol. In this case, the arbitrators would have had to consult the Permanent Court of International Justice. If the Court were to recognise that the dispute fell within the domestic jurisdiction of a State, its decision would not prevent the Council or the Assembly from examining the situation under Article 11 of the Covenant, which calls upon the League to take measures to safeguard the peace of nations.

d) *Determination of the aggressor.* — Article 10 of the

Protocol dealt with the determination of the aggressor. M. Politis' report contained the following passage :

> The definition of agression is a relatively easy matter, for it is sufficient to say that any State is the agression which resorts in any shape or form to force in violation of the engagements contracted by it either under the Covenant (if, for instance, being a Member of the League of Nations, it has not respected the territorial integrity or political independence of another Member of the League) or under the present Protocol (if, for instance, being a signatory of the Protocol, it has refused to conform to an arbitral award or to a unanimous decision of the Council). This is the effect of Article 10, which also adds that the violation of the rules laid down for a demilitarised zone is to be regarded as equivalent to resort to war. The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly many not constitute an actual state of war, should nevertheless be taken into consideration by the Council.
>
> On the contrary, to ascertain the existence of agression is a very difficult matter, for altough the first of the two elements which together constitute agression, namely, the violation of an engagement, is easy to verify, the second, namely, resort to force, is not an easy matter to ascertain. When one country attacks another, the latter necessarily defends itself, and when hostilities are in progress on both sides, the question arises which party began them.
>
> This a question of fact concerning which opinions may differ.
>
> The first idea which occurs to the mind is to make it the duty of the Council to determine who is the aggressor. But, immediately, the question arises whether the Council must decide this question unanimously, or whether a majority vote would suffice. There are serious disadvantages in both solutions and they are therefore unacceptable.
>
> To insist upon a unanimous decision of the Council exposes

the State attacked to the loss of those definite guarantees to which it is entitled, if one single Member of the Council—be it in good faith or otherwise—insists on adhering to an interpretation of the facts different from that of all his colleagues. It is impossible to admit that the very existence of a nation should be subject to such a hazard. It is not sufficient to point out that the Council would be bound to declare the existence of agression in an obvious case and that it could not fail to carry out its duty. The duty would be a duty without a sanction and if by any chance the Council were not to do its duty, the State attacked would be deprived of all guarantees.

But it would also be dangerous to rely on a majority vote of the Council. In that case, the danger would be incurred by the State called upon to furnish assistance and to support the heavy burden of common action, if it still entertained some doubt as to the guilt of the country against which it had to take action. Such a country would run the risk of having to conform to a decision with which it did not agree.

The only escape from this dilemma appeared to lie in some automatic procedure which would not necessarily be based on a decision of the Council. After examining the difficulty and discussing it in all its aspects, the First Committee believes that it has found the solution in the idea of a presumption which shall hold good until the contrary has been established by a unanimous decision of the Council.

The Committee is of opinion that this presumption arises in three cases, namely, when a resort to war is accompanied :

By a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom;

By violation of provisional measures enjoined by the Council as contemplated by Article 7 of the Protocol;

Or by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party and by failure or by refusal to submit the question first to the Council or the Assembly.

In these cases, even if there is not absolute certainty, there

exists at any rate a very strong presumption which should suffice for the application of sanctions unless proof to the contrary has been furnished by a unanimous decision of the Council.

e) *Armistice prescribed by the Council.* — In this connection, M. Politis said :

Apart from the aboves cases, there exists no presumption vhich can make it possible automatically to determine who is the agressor. But this fact must be determined, and, if no other solution can be found, the decision must be left to the Council. The same principle applies where one of the parties is a State, which is not a signatory of the Protocol and not a Member of the League.

If the Council is unanimous, no difficulty arises. If, however, the Council is not unanimous, the difficulty is be overcome by directing that the Council must enjoin upon the belligerents an armistice the terms of which it will fix if need be by a two-thirds majority and the party which rejects the armistice or violates it is to be held to be an aggressor.

The system is therefore complete and is as automatic as it can be made.

Where a presumption has arisen and is not rejected by a unanimous decision of the Council, the facts themselves decide who is an aggressor; no further decision by the Council is needed and the question of unanimity or majority does not present itself; the facts once established, the Council is bound to act accordingly.

Where there is no presumption, the Council has to declare the fact of agression; a decision is necessary and must be taken unanimously. If unanimity is not obtained, the Council is bound to enjoin an armistice, and for this purpose no decision properly speaking has to be taken : there exists an obligations which the Council must fulfil; it is only the fixing of the terms of the armistice which necessitates a decision, and for this purpose a two-thirds majority suffices.

f) *Working of sanctions in case of aggression* (*Article 10, final paragraph*).

The fact of agression having been established by presumption or by unanimous decision of the Council or by refusal to accept or violation of the armistice, it will only remain to apply the sanctions and bring into play the obligations of the guarantor States. The Council will merely call upon them to fulfil their duty; here, again, there is no decision to be taken but an obligation to be fulfilled, and the question of majority or unanimous vote does not arise.

It is not, indeed, a matter of voting at all.

In order to leave no room for doubt, it has been formally laid down that a State which, at the invitation of the Council, engages in acts of violence against an aggressor is in the legal position of a belligerent and may consequently exercise the rights inherent in that character.

It was pointed out in the course oft he discussion that such a State does not possess entire freedom of action. The force employed by it must be proportionate to the object in view and must be exercised within the limits and under the conditions recommended by the Council.

B. *Security.*

The part of the Protocol dealing with security and reduction of armaments was submitted to the Assembly by Dr. Benes.

a) *Threats of aggression—preventive measures voted by the two-thirds majority.* — As in the Treaty of Mutual Assistance the signatories of the Protocol undertook in the event of a dispute to abstain from seeking a solution by military means, and in a general way, to refrain from any action likely to extend the dispute or render it more acute (Article 7, paragraph 1 of the Protocol).

Any complaint as to the infraction of the above undertakings could be brought before the Council, which would

take suitable preventive measures. The rôle of the Council was defined as follows :

> The Council, unless it be of opinion that the appeal is not worthy of consideration, will proceed with the necessary enquiries and investigations. Should it be established that an offence has been committed against the provisions of the first paragraph, it will be the duty of the Council, in the light of the results of such enquiries and investigations, to call upon any State guilty of the offence to put an end thereto. Any such State failing to comply will be declared by the Council to be guilty of violation of the Covenant (Article 11) or the Protocol.

The Council must, further, take the necessary measures to put an end, as soon as possible, to a situation calculated to threaten the peace of the world. The text does not define the nature of these preventive measures. Its elasticity permits the Council to take such measures as may be appropriate in each concrete case, as, for example, the evacuation of territories.

Any decisions which may be taken by the Council in virtue of this Article may be taken by a two-thirds majority, except in the case of decisions dealing with questions of procedure which still come under the general rule of Article 5, paragraph 2, of the Covenant. The following decisions, therefore, can be taken by a two-thirds majority :

> The decision as to whether there has or has not been an offence against the first paragraph;
>
> The decision calling upon the guilty State to remedy the offence;
>
> The decision as to whether there has or has not been refusal to remedy the offence;
>
> Lastly, the decision as to the measures calculated to put an end, as soon as possible, to a situation calculated to threaten the peace of the world.

Article 8 concerned mere threats of aggression, and in this case, the Council was empowered to apply the preventive procedure envisaged in Article 7.

b) *Security—Sanctions.* — By Article 11 the Protocol aimed at settling all the controversies on the application of sanctions. The obligations of the signatories in this connection would have come into play when the Council, acting in accordance with the final paragraph of Article 10, had invited them to apply such sanctions. The nature and scope of these obligations were described as follows :

> The reply to the question whether a signatory to the Protocol has or has not fulfiled its obligation depends on whether it has loyally and effectively co-operated in resisting the act of aggression to an extent consistent with its geographical position and its particular situation as regards armaments.
>
> The State remains in control of its forces, and itself, and not the Council, directs them, but paragraph 2 of Article 11 gives us positive material upon which to form a judgment as to whether or not the obligation has been carried out in any concrete case. This criterion is supplied by the term : *loyally and effectively*.

In answerin the question whether a State has or has not fulfilled its obligations in regard to sanctions, a certain elasticity in the obligations laid down in Article 11 allows of the possibility of *taking into account, from every point of view, the position of each State which is a signatory to the present Protocol.* The signatory States are not all in possession of equal facilities for acting when the time comes to apply the sanctions. This depends upon the geographical position and economic and social condition of the State, the nature of its population, internal institutions, etc.

Indeed, during the discussion as to the system of sanctions, certain delegations declared that their countries were in a special situation by reason of their geographical position or the state of their armaments. These countries desided to co-operate to the fullest extent of their resources in resistance to every act of agression, but they drew attention to their special conditions. In order to take account of this situation, an addition has been made to paragraph 2 of Article 11 pointing out this state of affairs and laying stress on the particular situation of the countries in question.

Moreover, Article 13 of the Protocol allows such countries to inform the Council of these matters beforehand.

I would further add that the obligations I refer to are imperfect obligations in the sense that no sanctions are provided for against any party which shall have failed loyally and effectively to co-operate in protecting the Covenant and resisting every act of aggression. It should, however, be emphasised that such a State would have failed in the fulfilment of its duties and would be guilty of a violation of engagements entered into.

In view of the foregoing, the gist of Article 11, paragraphs 1 and 2, might be expressed as follows : Each State is the judge of the manner in which it shall carry out its obligations but not of the existence of those obligations, that is to say, each State remains the judge of what it will do but no longer remains the judge of what it should do.

Now that the present Protocol has defined more precisely the origin, nature and extent of the obligations arising out of the Covenant, the *functions of the Council, as provided in Articles 10 and 16, have become clearer and more definite.*

c) *Sanctions as defined in the Covenant and the Protocol :* On this subject, Dr. Benes said :

The difference between the former state of affairs and the new will therefore be as follows :

According to the system laid down by the Covenant :

1. The dispute arises.

2. In cases where neither the arbitral procedure nor the judicial settlement provided for in Article 13 of the Covenant is applied, the Council meets, and discusses the dispute, attempts to effect conciliation, mediation, etc.

3. If it be unsuccessful and war breaks out, the Council, if unanimous, has to express an opinion as to which party, is guilty. The Members of the League then decide for themselves whether this opinion is justified and whether their obligations to apply economic sanctions become operative.

4. It then has, *by a unanimous decision, to recommend* military sanctions.

5. If unanimity cannot be obtained, the Council ceasing to take action, each party is practically free to act as it chooses.

According to the new system defined in the Protocol, the situation is as follows :

1. The dispute arises.

2. The system of peaceful settlement provided for by the Protocol comes into play.

3. The Council intervenes, and if, after arbitration has been refused, war is resorted to, if the provisional preventive measures are not observed, etc., the Council decides which party is the aggressor and calls upon the signatory States to apply the sanctions.

4. This decision implies that such sanctions as the case requires—economic, financial, military, naval and air—shall be applied forthwith, and without further recommendations or decisions.

We have therefore the following nex elements :

(*a*) The obligation to apply the necessary sanctions of every kind as a direct result of the decision of the Council.

(*b*) The elimination of the case in which all parties would be practically free to abstain from any action. The introduction of a system of arbitration and of provisional measures which permits of the determination in every case of the agressor.

(*c*) No decision is taken as to strenght of the military naval and air forces, and no details are given as to the measures which are to be adopted in a particular case. None the less, objective criteria are supplied which define the obligation of each signatory; it is bound, in resistance to an act of aggression, to collaborate *loyally and effectively* in applying the sanctions in accordance with its geographical situation and its particular situation as regards armaments.

That is why I said that *the great omission in the Covenan has been made good.*

It is true that no burden has been imposed on States beyond the sanctions already provided for in the Covenant. But, at present, a State seeking to elude the obligations of of the Covenant can reckon on two means of escape :

(1) The Council's recommendations need not be followed.

(2) The Council may fail to obtain unanimity, making impossible any declaration of agression, so that no obligation to apply military sanctions will be imposed and everyone will remain free to act as he chooses.

We have abandoned the above system and both these loopholes are now closed.

d) *Economic and Financial Mutual Assistance.* — Article 11, paragraph 3 of the Protocol defined the economic and financial mutual support contemplated by Article 16, paragraph 3 of the Covenant (the granting of facilities as regards supplies of raw materials, etc., credit, transport and transit).

Article 12, provided that the Council once in possession of the necessary information, should draw up plans of action for the application of the economic and financial sanctions against an aggressor State, and plans of economic and financial cooperation between the State attacked and the different States assisting it.

e) *Special Treaties.* — The controversy with regard to special treaties had become less acute during the Assembly, owing to the acceptance of the provisions for compulsory arbitration introduced into the Protocol.

The provisions of Article 13, paragraphs 2, and 3, M. Benes said refer to the special agreements which were discussed at such lenght last year. In view of the fact that, according to paragraph 2, such agreements can only come into force

when the Council has invited the signatory States to apply the sanctions, the nature of these agreements may be defined as follows :

Special agreements must be regarded as the means for the rapid application of sanctions of every kind in a particular case of agression. They are additional guarantees which give weaker States an absolute assurance that the system of sanctions will never fail. They guarantee that there will always be States prepared immediately to carry out the obligations provided for in Article 11 of the Protocol.

In accordance with Article 18 of the Covenant, it is expressly stated that these agreements will be registered and published by the Secretariat, and it has also been decided that they will remain open for signature to any State Member of the League of Nations which may desire to accede to them.

The Council was empowered to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately in order to ensure the fulfilment of the obligations arising out of the Covenant and the Protocol.

Article 15 contained provisions similar to those of the Treaty of Mutual Assistance to the effect that the aggressor should bear the entire costs of a war.

C. *Reduction of Armaments.*

The main object of the Protocol was to make a reduction of armaments possible, and its existence and entry into force depended on this condition.

The signatories agreed to take part in an international conference for the reduction of armaments which was to be held on June 25th, 1925. All States, members or not of the League, were to have been invited. The Council was to draw up a general programme for the reduction and limitation of armaments and communicate it to Governments at the latest three months before the Conference.

In his report, Dr. Benes drew attention to the interdependence of the three factors, arbitration, security and reduction of armaments, and to the fact that the Protocol would lapse if the conference failed; he defined as follows the obligations of the signatories under Article 17 and 21 as regards reduction and limitation of armaments :

> Although it has not been possible to solve the problem of the reduction of armaments in the clauses of the document submitted to the Assembly for approval, our work paves the way to it and makes it possible.
>
> The reduction of armaments will result, in the first place, from the general security created by a diminution of the dangers of war arising from the cimpulsory pacific settlement of all disputes.
>
> It will also ensue from the certainty which any State attacked will have of obtaining the economic and financial support of all the signatory States, and such support would be especially important should the aggressor be a great Power, capable of carrying on a long war.
>
> Nevertheless, for States which, owing to their geographical position, are especially liable to attack, and for States whose mots important centres are adjacent to their frontiers, the dangers of a sudden attack are so great that it will not be possible for them to base any plan for the reduction of their armaments simply upon the political and economic factors referred to above. no matter what the importance of such factors may be.
>
> It has also been repeatedly declared that many States would require to know what military support they could count on, before the convening of the Conference, if they are to submit to the Conference proposals for large reductions of armaments; this might necessitate negotiations between the Governments and with the Council before the meeting of the Conference for the reduction of armaments provided for in Article 17. The undertakings referred to in Article 13 of the Protocol should be interpreted in the light of the above.
>
> In drawing up the general programme of the Conference,

it will also be necessary, as stated in paragraph 2 of Article 17, for the Council, apart from other criterial "to take into account the undertakings mentioned".

In view of the close interdependence of the three great problems involved, namely, the pacific settlement of disputes, sanctions against those who disturb the peace of the world, and reduction of armaments, the Protocol provides for the convening by the Council of a general Conference for the Reduction of Armaments and for the preparation of the work of such a Conference. Furthermore, the application of the clauses concerning arbitration and sanctions will be conditional on the adoption by the said Conference of a plan for the reduction and limitation or armaments.

Morevoer, in order to preserve the connection between the three big problems referred to above, it is provided that the whole Protocol will lapse in the event of the non-execution of the scheme adopted by the Conference. It devolves upon the Council to declare this under conditions to be determined by the Conference itself.

The last paragraph of Article 21 provides for the case of the partial lapsing of the Protocol after it has been put into force. Should the plan adopted by the Conference beregarded as having been put into effect, any State which fails to execute it, so far as it is concerned, will not benefit by the provisions of the Protocol.

The general principles embodied in the report may be summed up as follows : "Compulsory arbitration for every kind of dispute; aggression defined in such a way as to give no cause for hesitation when the Council has to take a decision; the indissoluble binding up of the whole system with a conference for the reduction of armaments; no arbitration or security without disarmament, and no disarmament without arbitration and security".

D. *Signatures and a ratification of the Protocol and Article 36 of the Statute of the Permanent Court of International Justice.*

Immediately after the Assembly, the Protocol was signed by the 14 following States :

Albania
Belgium
Brazil
Bulgaria
Chili
Czechoslovakia
Estonia
Finland
France
Greece
Haiti
Latvia
Liberia
Paraguay
Poland
Portugal
Kingdom of the Serbs-Croats-Slovenes
Spain
Uruguay

Other signatures followed; sometime later the Protocol was ratified by Czechoslovakia.

These accessions raised to twenty-six the total number of signatories of the optional clause of the Court Statute. It has now been signed by :

Austria
Belgium
Brazil
Bulgaria
China
Costa-Rica
Denmark
Dominican Republic
Estonia
Ethiopia
Finland
France
Germany
Guatemala
Haiti
Latvia
Liberia
Lithuania
Luxemburg
Norway
Panama
Netherlands
Portugal
Salvador
Sweden
Switzerland
Uruguay (1)

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(1) It is in force between :

Abyssinia
Austria
Belgium
Bulgaria
China
Denmark
Estonia
Finland
Haiti
Lithuania
Netherlands
Norway
Portuga
Sweden
Switzerland
Uruguay

CHAPTER IV

From the Protocol to the Locarno Agreements.

I. Organisation of the work of the Council. Creation of the Council Committee on Disarmament.

The Assembly of 1924 left the Council a comparatively short time for the accomplishment of two important tasks, namely, the preparation of a general programme of reduction and limitation of armaments for the proposed conference, and a study of measures for enforcing the sanctions and measures of economic and financial cooperation mentioned in Article 16 of the Covenant and Article 11 of the Protocol.

Dr. Benes, rapporteur to the Council on the question of armaments, submitted on October 3rd, 1924, a report on the organisation of the work.

He drew attention to the fact that all the tasks entrusted to the Council were directed towards the same end, the organisation of peace, culminating in a conference for the reduction of armaments. "Security", he said, "will be complete only if this conference succeeds; the conference will succeed only if our preparatory work makes possible the practical application of the great principles of collaboration, mutual aid, and assistance of every kind as laid down in the Protocol".

He emphasised that the preparation of the conference imposed upon the Council a number of duties and responsibilities which made it necessary constantly to exercise its particular duty of directing and coordinating the work of the various organisations of the League.

For this purpose the Council decided to sit as a Committee to whose meetings its titular members might send deputies if they could not themselves be present.

To assist the Committee, the Council reorganised the Temporary Mixed Commission as a Coordination Commission. It was composed as follows:

(*a*) The Committee of the Council (ten members), assisted by;

(*b*) The Chairman and one or two members of each of the three organisations, Economic, Financial and Transit (six members);

(*c*) Six members appointed by the Permanent Advisory Commission;

(*d*) Two members of the Employers'Group, and two members of the Workers'Group of the Governing Body of the International Labour office, appointed by the latter.

(*e*) If considered advisable, a certain number of experts, jurists and others, appointed by the Council.

The Co-ordination Commission had no power of final decision. Its duties mainly consisted in regulating the liaison and co-operation between the competent League organisations, in reviewing their reports and in co-ordinating the results of their work in order to present them in complete form.

2. Rejection of the Protocol.

In December, 1924, the Council was to have studied various questions concerning the application of the Protocol. At the request of the British Government, this question was withdrawn from the agenda. On December 9th, Mr. Austen Chamberlain, Minister of Foreign Affairs, drew the attention of his colleagues to the special position of the British representative on the Council, who spoke the mind not of one Government only, but of five or six Governments widely divided by oceans and seas, and with whom communication was necessarily slow. He said that his Government had not had time to study the Protocol, owing to the many problems to be settled immediately.

> We recognise, he said, the immense importance of the Protocol. We feel that those who sign it must sign with full knowledge of the obligations which it imposes, and with the resolution that they will keep scrupulously to whatever obligations they may undertake. It is because of the serious importance that we attach to it, that we ask the Council to be good enough to give us the time necessary for its study and for the instruction of our representatives on the Committees which it was contemplated we should set up today.

Three months later, at the Council debates of March 12th and 13th, 1925, a statement of the British representative made it clear that the application of the Protocol would encounter considerable difficulties. In these circumstances all that the Council could do was to transmit to the subsequent Assembly the statements of the British and other representatives on the Council, together with any observations sent in by States members of the League. It decided to await the decision of the Assembly before continuing the preparatory work for the conference.

In his statement of March 12th, the British representative pointed out that, if the present advisers of His Majesty after discussing the subject with the self-governing Dominions and India, saw insuperable objections to signing and ratifying the Protocol in its present shape, this was not because they felt themselves out of harmony with the purpose which it was intended to serve, but were opposed in principle to schemes for clarifying the meaning of the Covenant, or strengthening its provisions. Amendment and interpretation might in themselves be desirable, but His Majesty's Government could not believe that the Protocol as it stood provided the most suitable method of attempting that task.

The British Government then set forth a certain number of objections to the system contemplated for the pacific settlement of international disputes and the application of

sanctions, objections which in its opinion were fundamental. They may be summed up as follows :

a) The British Government considered that if the framers of the Covenant had not required that every dispute should at some stage or other be submitted to arbitration, it was presumably because they felt, as so many States members of the League had since felt, that the objections to universal and compulsory arbitration might easily outweigh its theoretical advantages.

His Majesty's Government was more immediately concerned to enquire how far the change in the Covenant effected by the Protocol was likely to increase the responsibilities already undertaken by States members. It concluded that according to the Protocol fresh classes of disputes were to be decided by the League, fresh possibilities of defying its decisions were created, fresh occasions for the application of coercive measures followed as a matter of course, and it was therefore not surprising that quite apart from the problem of disarmament, the question of sanctions should be treated at length in the clauses of the Protocol.

b) The statement drew attention to the absence of the United States from the League, adding nevertheless, that, could attention be confined to the present and the past, it might be said that the problems which even a weakened League had had to face, had never overstrained its authority. The economic sanction, if simultaneously directed by all the world against a State which was not itself economically self-sufficing, would be a weapon of incalculable power. But all this was changed by the mere existence of powerful economic interests outside the League. It might force trade into unaccustomed channels, but it could hardly stop it, and though the offending State would no doubt suffer, there is no presumption that it would be crushed or even that it would suffer most.

c) The statement further contained a criticism of the provisions of the Protocol which aimed at preventing a State which had a difference with a neighbour from making any preparations for war between the moment when a dispute arose and the moment when proceedings for a pacific settlement had been concluded. This, it was considered, placed the aggressor at an advantage.

> The aggressor is at liberty to select his own date for picking a quarrel. Until that date arrives he may distribute his armies as he pleases—provided only that he neither mobilises them nor adds to them. When the distribution is as favourable to his designs as he can hope to make them, he starts the dispute. Immediately, the military position becomes temporarily unalterable. His troops, which are more or less in the right position for attack, may (indeed must) be kept there till he wants to use them. The troops, on the other hand, of his prospective victim are (by supposition) in the wrong position for defence. But there they must be kept, or the victim may find himself charged with a breach of the Protocol.

The difficulties raised seemed insuperable as far as they affected land forces, but the problems were even more embarrassing when applied to the case of forces at sea.

> The whole value of a fleet depends on its mobility. Its distribution is in all probability quite different in time of peace from what it would be under threat of war. To suggest that, directly a dispute arises which in any way concerns a maritime Power, its ships are to remain immovably fixed on the stations where the chance conveniences of peace may happen to have placed them, is asking the threatened State to make a surrender of its inalienable right of self-defence, to which it is never likely to submit.

d) While agreeing in general with the provision that the aggressor should bear all the costs of the war and pay full

reparation for all damages, the British Government did not consider that it was wise to embody these generalities in dogmas of inflexible rigidity designed to control the actions of the League in all circumstances and for all time. In the strictest codes of law mitigating circumstances were allowed to modify the judgments of the courts, and His Majestys Government failed to see why the League should deliberately deprive itself of a discretion which all other tribunals were free to exercice.

There was similar criticism concerning the provision that protected the aggressor State against any change of frontier, and any intervention in domestic affairs. While in general agreement on this point, the British Government added :

> The aggression may have been utterly unprovoked; it may have been barbarously conducted; it may be the work of a corrupt and tyrannical administration; and it may be the inevitable result of cruel mis-government on the aggressor's side of an illdrawn frontier. Are we to lay it down for all time that, in such as case, the League shall do nothing to prevent a repetition of the offence but ask for money? This may, indeed, be all that is possible; but would it not be wise to let the League itself resolve this problem, if unhappily the occasion should ever arise?

e) The British Government was further of opinion that the provisions of the Protocol concerning sanctions

> "insensibly suggested the idea that the vital business of the League was not so much to promote friendly co-operation and reasoned harmony in the management of international affairs, as to preserve peace by organising war, and possibly war on the largest scale".

f) To conclude, it stated that it failed to see how the application of the Protocol would inevitably be followed by disar-

mament. It mentioned certain cases in which the Protocol might only extend the area of war, a possibility which, if realised, would not improve the chances of general disarmament.

3. Proposal of the British Government with regard to special agreements concluded in the framework of the Covenant (1).

In the final part of the statement, the British Government suggested a solution designed to allay the existing fears of war :

> The brooding fears that keep huge armaments in being have little relation to the ordinary misunderstandings inseparable from international (as from social) life—misunderstandings with which the League is so admirably fitted to deal. They spring from deep-lying causes of hostility which, for historic or other reasons, divide great and powerful States. These fears may be groundless; but if they exist they cannot be effectually laid by even the most perfect method of dealing with particular disputes by the machinery of enquiry and arbitration. For what is feared in such cases is not injustice but war—war deliberately undertaken for purposes of conquest or revenge. And, if so, can there be a better way of allaying fears like these than by adopting some scheme which should prove to all the world that such a war would fail?
>
> Since the general provisions of the Covenant cannot be stiffened with advantage, and since the " extreme cases " with which the League may have to deal will probably affect certain nations or groups of nations more nearly than others, His Majesty's Government conclude that the best way of dealing with the situation is, with the co-operation of the League, to supplement the Covenant by making special arrangements in

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(1) On February 9th, 1925, the German Government addressed to the Allied Governments a Note stating that it would consider as acceptable a pact which formally guaranteed the present *status quo* on the Rhine.

order to meet special needs. That these arrangements should be purely defensive in character, that they should be framed in the spirit of the Covenant, working in close harmony with the League and under its guidance, is manifest. And, in the opinion of His Majesty's Government, these objects can best be attained by knitting together the nations most immediately concerned, and whose differences might lead to a renewal of strife, by means of treaties framed with the sole object of maintaining, as between themselves, an unbroken peace. Within its limits no quicker remedy for our present ills can easily be found or any surer safeguard against future calamities.

This statement was followed by a debate in the course of which all the members of the Council stated their point of view. Several of them, in particular those who had signed the Protocol in September on behalf of their Governments, endeavoured to refute the criticisms of the British Government. They proclaimed their faith in the efficacy of the Protocol and their desire, whatever might happen to direct their country's policy in accordance with its provisions.

It is unnecessary to retrace here the arguments put forward, as their substance is contained in the reports of M. Politis and Dr. Benes quoted in the preceding chapter. On the other hand, it is necessary to give the replies of the members of the Council to the British representative's suggestion concerning the conclusion of special agreements.

The French representative, M. Briand, agreed with this suggestion, emphasising its connection with the treaty of mutual assistance, drafted in 1923.

> We are told that perhaps, all the same, the Covenant is not sufficient in itself, that it might have to be amended in certain respects, and that even in 1923, the movement in this direction would perhaps have achieved results, might indeed still do so if it were resumed. This constitutes a kind of appeal to a procedure of mutual assistance which in any case

is not the same as absolute powerlessness and absolute negation. My Government, Gentlemen—and I make this statement in its name—remains definitely attached to the Protocol, but it does not refuse to enter into any discussion for improving it.

The Italian representative, M. Sciajola, also approved the idea of purely defensive agreements framed in accordance with the Covenant, working in close harmony with the League and under its guidance, and knitting together the nations most immediately concerned, whose differences might lead to a renewal of strife by means of treaties framed with the sole object of maintaining, as between themselves, an unbroken peace.

The Belgian delegate, M. Hymans, said that this idea had been advocated by his Government ever since the armistice. The idea of special agreements was contained in the mutual assistance scheme of 1923, and appeared again in the shape of regional agreements in the Protocol of 1924.

Dr. Benes, who had reported on the Protocol, recalled the fact that he had supported the special agreements theory at five League Assemblies, and expressed his satisfaction at the proposal of the British Government and its acceptance by several of his colleagues.

We want peace and security, and, as I have already said, I think we shall get it sooner or later through some system applying in one form or another the leading ideas of the Protocol. Meanwhile it is perfectly possible to begin by other attempts, for in the end we shall reach the same result.

The only question that remains is how and when we shall reach it. Ways of attaining the end may be different, as we have seen in our discussions, and I hope that the debates in the next Assembly on arbitration will take us a further step forward towards our aim.

I am not pessimistic either as to the time when the aim will be realised; it is obvious that time is necessary for an undertaking of this sort.

Thus, at the precise moment when the difficulties which had arisen seemed likely to hamper and delay the technical work undertaken by the League, a suggestion was made which held out hope of bringing the labours of 1923 and 1924 to a successful conclusion.

The endeavour of the principal sufferers from the war to introduce methods of conciliation and arbitration, to develop the guarantee of security and thus to create an atmosphere favourable to the reduction of armaments, was the first sign of the new development which originated with this debate.

4. Support given by the Assembly to the ideas embodied in the Locarno Treaties — Conciliation and arbitration.

In 1925, the Assembly noted the political problems put to the Council some months before, and the possibility of reaching a solution. It drew up a programme for the organisation of peace, whose guiding principles have directed the work up to the present day. It emphasised the "fidelity and unanimity with which the members of the League remained attached to the triple object underlying the draft Protocol, namely, arbitration, security and disarmament, and endeavoured to indicate methods or measures by which an approach might be made to this object, pending the achievement of a general settlement which many considered indispensable.

Numerous delegations expressed themselves in favour of arbitration agreements. The Belgian, Danish, Swedish and Japanese delegations deposited draft resolutions on the subject. The more general of these proposals dealt not only with arbitration, strictly speaking, but also with conciliation, a factor whose importance had frequently been recognised by preceding Assemblies, either as a preliminary to arbitration

or judicial settlement, or as an accessory method of settlement for disputes not submitted for judicial settlement.

For the coming year, the Assembly asked the Council to undertake not only a theoretical study of the problem as a whole, but above all, a practical enquiry with regard to the pacific settlement of international disputes, taking account of all the proposals, declarations and suggestions made in the Council or the Assembly.

It adopted, with certain amendments, a draft resolution submitted by M. Quinonès de Léon (Spain) containing the following passage dealing with the preparation of the Locarno agreements :

(The Assembly)

Regards favourably the effort made by certain nations to attain those objects by concluding arbitration conventions and treaties of mutual security conceived in the spirit of the Covenant of the League of Nations and in harmony with the principles of the Protocol (Arbitration, Security, Disarmament);

Records the fact that such agreements need not be restricted to a limited area but may be applied to the whole world;

Recommends that, after these conventions and treaties have been deposited with the League of Nations, the Council should examine them in order to report to the Seventh Assembly on the progress in general security brought about by such agreements.

5. The Locarno Agreements and the League of Nations.

In the agreements initialled at Locarno on October 16th, 1925, and signed in London on December 1st, were embodied certain principles formulated by the League organisations during the preceding years.

The Treaty between Germany, Belgium, France, Great Britain and Italy was a treaty of security with detailed provisions for the intervention of the Council in certain cases. Similarly, the agreements between France and Poland and France and Czechoslovakia contemplate action with a view to the enforcement of Article 10 of the Covenant.

The four arbitration conventions, between Germany and Belgium, France, Poland and Czechoslovakia constitute an application of the work done on arbitration and conciliation. They were all four drafted in identical terms and provided for the constitution between the Contracting Parties of permanent conciliation commissions, to which might be submitted, by agreement, the disputes mentioned in Article 13 of the Covenant. These Commissions were to be constituted as recommended in 1922 by the Third Assembly. Article 16 of the Conventions provides for reference, in certain cases, to the Permanent Court of International Justice.

These agreements entered into force on Germany's admission to the League, and remain in force until the Council, at the request of one or other of the High Contracting Parties — notified to the signatories three months in advance — and voting at least by two-thirds majority, decides that the League of Nations ensures sufficient protection to the parties.

The object of these agreements is to provide for the peaceful settlement of disputes of every nature which may eventually arise between the signatories, and to give these Powers supplementary guarantees within the framework of the Covenant and the Treaties in force.

In the final Protocol, the signatories expressed their firm conviction that the entry into force of these agreements would effectively hasten the disarmament contemplated in Article 8 of the Covenant, and undertook to give their cooperation in this direction.

6. Character of the Locarno Agreements.

The Locarno Agreements constitute a new departure in so far as they combine the more important features of various types of earlier treaties of arbitration and conciliation, and guarantee. These features may also be found in the Covenant and the Draft Protocol, and the Locarno Agreements thus fit into the framework of the League. As contemplated in the Treaty of Mutual Assistance, they are concluded between States whose conflicting interests might give rise to disputes.

By the Treaty between Germany, Belgium, France, Great Britain and Italy, the Contracting Parties express their desire to give all the signatories supplementary guarantees within the framework of the Covenant. They severally guarantee the maintenance of the territorial *status quo* between Germany and Belgium, and between Germany and France, and the observance of the stipulations of the Peace Treaty concerning the demilitarised Rhine zone. Germany and Belgium, and also Germany and France mutually undertake that they will in no case attack or invade each other or resort to war against each other. This stipulation does not apply in the case of legitimate defence, action in pursuance of Article 16 of the Covenant, or joint action as a result of a decision taken by the League. In no case shall the treaty be interpreted as restricting the duty of the League to take whatever action may be deemed wise and effectual to safeguard the peace of the world.

The treaty provides for the compulsory settlement by peaceful means of any dispute which may arise between Germany and Belgium or Germany and France, where it is impossible to settle a dispute by the normal methods of diplomacy, any question with regard to which the parties are in conflict as to their respective rights shall be submitted

to judicial decision; and all others to a Conciliation Commission. If the proposals are not accepted by the two parties, the question will be brought before the Council which will deal with it in accordance with Article 15 of the Covenant; by agreement between the parties conciliation may also be resorted to as a preliminary mode of settlement for cases which would normally be submitted for judicial settlement or arbitration.

The four Conventions which were concluded in addition to the Treaty of Guarantee arrange for similar procedure as regards arbitration and conciliation. The procedure of conciliation is dealt with in detail. As regards arbitration, the parties, failing a special agreement to that effect, are entitled to refer the matter to the Permanent Court of International Justice.

The Franco-Polish and Franco-Czechoslovak agreements provide that the parties shall lend each other immediate aid and assistance in the event of either of them suffering from a failure to observe the undertakings given at Locarno with a view to the maintenance of general peace, if such failure is accompanied by an unprovoked recourse to arms.

7. Deposit of the Locarno Agreements with the League of Nations.

On December 14th, 1925, during the thirty-seventh session of the Council, the British representative, Sir Austen Chamberlain, and the French representative M. Paul-Boncour, solemnly deposited the Locarno agreements in the archives of the League of Nations.

Sir Austen Chamberlain said :

> You will remember that at the last Assembly of the League of Nations considerable discussion took place on the subject

of arbitration, security and reduction of armaments, and that the Assembly eventually adopted a resolution which, amongst other things, declared that the Assembly, convinced that the most urgent need at the present time is the re-establishment of mutual confidence between nations, regards favourably the efforts made by certain nations to attain that object by concluding arbitration conventions and treaties of mutual security conceived in the spirit of the Covenant of the League of Nations and in harmony with the Protocol of Arbitration, Security and Disarmament.

He added :

In placing these documents under the guardianship of the League and attributing to the League all the authority which is therein specified, not less than by the agreement come to between Germany and the other nations that as part of those agreements Germany should enter the League of Nations, we have made a contribution which I trust will be acceptable to the League towards the support and increase of its authority and strength.

M. Paul-Boncour read a telegram from M. Briand (whose duties had prevented him from presiding at the meeting) containing the following passage :

These treaties which are inspired by the provisions and directing principles of the Covenant, are designed to be the beginning, between the States which have signed them, of normal relations based on equal desire to achieve conciliation within the limits of the Treaties and of the rights of each party.

M. Paul-Boncour added :

This is, for the League of Nations, and for all those who since its inception have devoted their efforts and consecrated their faith to the League — and I would remind you that there are here present some of the most distinguished of these persons — the highest reward, since the fundamental principles

underlying the League of Nations and its usefulness in the world are to-day confirmed.

M. Sciajola, Italy, examined the legal aspect of these treaties. He said :

> We have established an organisation at Locarno which at first sight may appear complicated, but which is in fact very simple. The questions which can be settled by a legal procedure are submitted to arbitration or to the Permanent Court of International Justice. Other questions are sent to Conciliation Committees which have a wider competence—or rather an unlimited competence. As a final resort, if the conciliation committees are unable to achieve agreement, though we hope that they will always be able to find a way to eliminate causes of dispute, the questions are submitted to the Council, which is specially qualified and established to deal with such matters by the Covenant of the League, but which may perhaps have needed the preparatory organisations which we created at Locarno.

The other members of the Council associated themselves with the words of these three representatives and stated their conviction that, through the work it had already done, the League had had an important influence on the conclusion of these agreements.

CHAPTER V

Resumption of the preparatory Work. Decisions of the Assembly and the Council.

I. Situation at the end of 1925.

The year between the Assemblies of 1924 and 1925 was almost entirely devoted to the discussion of the Protocol.

The preparatory work for the Conference on Reduction of Armaments was interrupted as the conference itself depended on the entry into force of the Protocol.

When the Assembly met in September, 1925, the preparations for the Locarno agreements were well advanced and all the members of the League associated themselves with this endeavour to restore a greater measure of security to Europe. Their approval was embodied in a resolution submitted by M. Quiñonès de Léon, and examined in the preceding chapter.

In anticipation of the Locarno agreements, the Assembly drew up a new programme and asked the Council to turn its attention to the constitution of committees with the necessary instructions.

This decision was reached after an exhaustive debate. A certain number of delegations expressed doubts whether it would not be preferable to await the results of the negotiations, and the effects which the successful issue of such negotiations might have on the preparation and conclusion of similar agreements, before the Council committed itself too definitely to preparatory studies for the reduction and limitation of armaments. They considered that this reduction and limitation would have no solid foundation until the political conditions under which they would be carried out were defined.

Other delegations thought that, while deferring until the most suitable moment—to be chosen by the Council—the summoning of an international conference for the reduction and limitation of armaments, it was essential that the preliminary work should be begun without delay.

The Assembly thought that these two points of view might be reconciled. On the one hand, though it was premature to contemplate immediately in all its details the summoning of an international conference, it was none the less possible

to begin the preliminary enquiries in so far as they might relate to all questions not directly affected by the international political situation. Accordingly, in the final paragraph of the resolution submitted by M. Quiñonès de Léon, the Assembly invited the Council to engage in preparatory studies for the organisation of a conference, in order that the conference might be convened as soon as satisfactory conditions had been assured from the point of view of general security, as provided in Resolution XIV of the Third Assembly.

As will be seen in the following chapter, the Preparatory Commission for the Disarmament Conference was constituted in virtue of this resolution.

Its programme of work, which bore on the technical aspects of the question and its connection with the security problem, was drawn up after the Locarno Agreements had been signed.

2. Guiding principles of the new work. — Simultaneous efforts as regards arbitration, security and reduction of armaments.

The work entrusted to the Council and its advisory organisations aimed at the re-establishment of mutual confidence between nations and included studies along the following lines: *a*) Development of arbitration and security agreements of the Locarno type; *b*) completion of the technical work so as to enable a conference to be convened as soon as possible.

As it was not possible to apply the general solution proposed by the Protocol, the League's work from this moment concerned the investigation of special solutions.

The Locarno agreements were signed towards the end of 1925. In September, 1926, Germany was admitted to the League. At that moment the Assembly had before it the reports of the Council on the results obtained in the course

of the year which are summarised in the following chapter. It was thus able to confirm more definitely the instructions given the year before on which action was subsequently taken by the Council in December 1926.

The Assembly examined in particular the progress made in arbitration and security as described in a systematic survey of arbitration and security agreements prepared at its request by the League Secretariat. As stated by the rapporteur, M. Lazare Marcovitch, the Assembly's principal aim was to promote the development of international relations in the spirit of mutual confidence and security which prevailed at Locarno. The resolution adopted by the Assembly bore some relation to those of previous years, and more particularly to those of September 25th, 1925. It was designed to testify to the League's desire to promote the continuation of the work accomplished at Locarno, and to make that work more far-reaching by extending it to other regions of Europe and of the world as a whole.

The Assembly further stated that the conclusion of such agreements was a definite step forward in the establishment of mutual confidence and security, the indispensable conditions of the maintenance of international peace, and as such would facilitate the reduction and limitation of the armaments of all States.

The Assembly recommended that the limitation and reduction of armaments should correspond to existing conditions in regional and general security. It requested the Council to take action towards the application of these principles, expressing its conviction that the general ideas embodied in the clauses of the Locarno Treaties, whereby provision was made for conciliation and arbitration and for security by the mutual guarantee of States against any unprovoked aggression, might well be accepted amongst the fundamental rules which should govern the foreign policy of every civilised nation.

The Assembly accordingly invited the Council to recommend States members to put into practice the above-mentioned principles, and to offer, if necessary, its good offices for the conclusion of suitable agreements. This was an new departure which was subsequently approved by the Council. At that moment, as specified in the report, the Council had merely to give its encouragement and make a recommendation. The idea was nevertheless resumed later, and the Council is still studying the possibility of putting it into practice.

This was the general basis of the Preparatory Commission's work for the Disarmament Conference which it began in 1926, and upon which it is still engaged, a fresh impetus having been given by the 1927 Assembly. The main lines are described in the four following chapters. The first deals with the organisations preparing the Conference. It contains a list of the Committees and Commissions set up by the Council with their programme, which has been developed and completed as the discussions advanced and as possible solutions were gradually outlined. The other three chapters summarise the results obtained. They deal respectively with arbitration, security and the reduction and limitation of armaments.

CHAPTER VI

The Preparatory Commission for the Disarmament Conference. First Session.

In December, 1925, the Council, in accordance with the instructions of the Assembly, reorganised the Commissions preparing the Disarmament Conference. It had before it

proposals drawn up by its committees summarised in a report by M. Paul-Boncour, which it adopted almost entirely. It must be noted that, in addition to the Permanent Advisory Commission for military, naval and air questions, the Council Committee on Disarmament constituted the year before played an extremely important part in coordinating and directing the work.

The Council decided to set up the Preparatory Commission for the Disarmament Conference which has become the principal organ or this work. It is composed : *a*) of representatives of the States Members of the Council; *b*) of representatives of States which are in a special position as regards disarmament by reason of their geographical situation, and which are not otherwise represented on the Commission.

Two non-Member States sit on the Commission : the United States (1) since the beginning, and more recently the Union of Socialist Soviet Republics, whose representative took part in the session of november 1927.

There are at present twenty-six members on the Commission, all Government representatives, as the Council considered that this was necessary on account of the importance of the questions raised. Any State not represented on the Commission is entitled to submit memoranda on points which are of special interest to it and to be heard

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(1) At the first meeting of the Commission the United States representative Mr. Gibson, recalled the reasons why his Government had agreed to send a representative, as stated by the President in his message to Congress on January 4th :

> " The general policy of this Government in favour of disarmament and limitation of armaments cannot be emphasised too frequently or too strongly. In accordance with that policy, any measure having a reasonable tendency to bring about these results should receive our sympathy and support. The conviction that competitive armaments constitute a powerful factor in the promotion of war is more widely and justifiably held than ever before, and the necessity for lifting the burden of taxation from the peoples of the world by limiting armaments is becoming daily more imperative ".

in support of its memoranda. The Commission may further invite any States, which in its opinion is particularly concerned, to co-operate in work on special questions.

The Commission may seek the cooperation and advice of the competent League organisations, which may of their own initiative present any suggestions which they consider useful. For the military, naval or air aspect of questions the Commission is assisted by the Permanent Advisory Commission; for economic questions it is assisted by a special body, the Joint commission composed of two members of each of the Economic, Financial and Transit Organisations, and of representatives of workers and employers' groups of the Governing Body of the International Labour Office.

There are two expert committees; one on civil aviation, and the other on budget questions. Finally, the Preparatory Commission can always summon and hear any persons whose special qualifications are calculated to facilitate its work on a given subject.

In his report to the Council, Dr. Benes described as follows the programme of the Commission :

> These proposals are very skilfully designed to meet the requirement that the higher political direction and coordination of the preliminary work should be concentrated in the hands of accredited representatives of the Governments. In view of the very diverse features which the problem presents in different parts of the world and in order to meet the wishes of the Assembly, the scheme rightly provides for the extension of the leading organisation by adding to the representatives of States Members of the Council a certain number of representatives of other States which are in a special situation in regard to this problem. It also provides means of enabling States not directly represented to make their views heard, and it empowers this Commission of Government representatives to obtain the opinions of experts specially qualified to advise on particular questions. Another advantage offered

by the scheme submitted to us is that it creates a well-defined yet elastic, system of cooperation in the work of disarmament with the technical organisations of the League.

The Preparatory Commission set up two Sub-Commissions, Sub-Commission A (Military Questions) composed of a military, naval and air expert for each of the countries represented on the Commission; Sub-Commission B (Economic Questions) composed of a representative of each delegation to the Preparatory Commission. The President of the Plenary Commission, which held its first session in May, 1926, is the Netherlands representative, Mr. Loudon.

I. Programme of work.

The original programme of the Preparatory Commission was drawn up by the Council Committee on Disarmament whose report, prepared by M. Paul-Boncour, was submitted to the Council in 1925.

The Committee of the Council had had to consider three lists of questions; one submitted by Lord Cecil (British Empire); one by M. Paul-Boncour (France) and the third by M. Cobian (Spain). On the basis of these lists the Committee drew up a questionnaire which was adopted by the Council with slight changes and finally became the programme of the Preparatory Commission. This questionnaire took account of the various points of view which had been revealed by the discussions both on the technical aspect of the questions and on the problem of security—points dealt with in a paragraph contemplating the possibility of making reduction of armaments proportionate to conditions of security and referring also to the question of mutual assistance economic and military.

In the report which Dr. Benes submitted to the Council on the subject, attention was drawn to certain political ques-

tions. The first concerned the interdependence of armaments. The French, Italian and Japanese representatives having stated on behalf of their Governments that they could not see their way to dissociate the various kinds of armaments—military, naval and air — and to consider them at separate conferences.

The rapporteur explained the position as regards the "potential war strength", a question which had often been discussed by the League organisations. He drew attention to the fact that the question was not to find a basis of comparison nor to effect a reduction, but to compensate potential war strength by economic and financial assistance.

A large number of delegates urged that it was impossible to deal with the disarmament question without reference to what has been called the potential war strength of the various countries—in other works, their population and their economic and industrial resources. As there could be no question of effecting a reduction in such factors, nor even of usefully examining them, they thought that it would not be practicable to find a fair basis for comparison between peace-time armaments properly so called unless the potential war strength of various countries were made comparable by organising economic and financial assistance as provided in principle in Article 16 of the Covenant.

The rapporteur then dealt with the question of the forces to be brought into line against a State guilty of aggression :

The French representative having laid great stress on the point that one of the essential objects of the reduction and limitation of armaments was to secure a position in which no country committing an aggression would be able to make head against the total forces which could be brought against it by the Members of the League acting conjointly in pursuance of Article 16 of the Covenant and of regional agreements as contemplated in Article 21.

Finally, the extremely controversial question of the international supervision and the limitation of armaments was touched upon :

> The British, French and Spanish delegates expressed the opinion that the question of an international supervision to ensure that the observance of limitation of armaments was being observed should be examined by the Preparatory Commission. The French delegate emphasised the necessity of such supervision, particularly during the period when the arbitration and conciliation proceedings provided for in the Covenant of the League of Nations and in the various agreements recently concluded were in progress.

On this subject the Council Committee on Disarmament had not reached any conclusion. It had confined itself to submitting to the Council two statements giving the different points of view and recalling that M. Cobian (Spain) had proposed that an international organisation should be appointed to ensure the supervision and the limitation of armaments. The first statement was submitted by Viscount Cecil :

> One question would at any rate have to be added. The Preparatory Commission would have to enquire into the nature of the international supervision to be, if possible, established in order to make sure that countries kept within the limits of the scale of armaments which had been fixed for them. It might prove impossible to establish such international supervision, and countries might have, as at present, to rely on their military attachés, but this was a matter which the Preparatory Commission should investigate.

The second by M. Paul-Boncour :

> If the limitation of armaments were not to have as a counterpart a general system of control, it would be equivalent to placing a premium on bad faith. If, however, only the visible disarmament in peace time were taken into account, this control could only be exercised over the actual troops in bar-

racks and on the material of war in the magazines. On the other hand, were account to be taken of the potential war strength, it would have to be admitted that war material would have at the same time to be controlled and that control should be particularly active and vigilant during the period when the procedure of conciliation and arbitration was being applied. This procedure had just been defined by the recent agreements, which contained valuable promises of security.

2. List of questions referred to the Preparatory Commission.

The following questions were referred to the Preparatory Commission :

Question I.

What is to be understood by the expression " armaments "?

(*a*) Definition of the various factors—military, economic, geographical, etc.—upon which the power of a country in time of war depends.

(*b*) Definition and special characteristics of the various factors which constitute the armaments of a country in time of peace; the different categories of armaments—military, naval and air—the methods of recruiting, training, organisations capable of immediate military employment, etc.

Question II.

(*a*) Is it practicable to limit the ultimate war strength of a country, or must any measures of disarmament be confined to the peace strength?

(*b*) What is to be understood by the expression " reduction and limitation of armaments "?

The various forms which reduction or limitation may take in the case of land, sea and air forces; the relative advantages or disadvantages of each of the different forms or methods; for example, the reduction of the larger peacetime units or of

their establishment and their equipment, or of any immediately mobilisable forces : the reduction of the length of active service, the reduction of the quantity of military equipment, the reduction of expenditure on national defence, etc.

Question III.

By what standards is it possible to measure the armaments of one country against the armaments of another, *e. g.*, numbers, equipment, expenditure, etc.?

Question IV.

Can there be said to be " offensive " and " defensive " armaments?

Is there any method of ascertaining whether a certain force is organised for purely defensive purposes (no matter what use may be made of it in time of war), or whether, on the contrary, it is established for the purposes in a spirit of agression?

Question V.

(*a*) On what principle will it be possible to draw up a scale of armaments permissible to the various countries, taking into account particularly :

Population;
Resources;
Geographical situation;
Length and nature of maritime communications;
Density and character of railways;
Vulnerability of the frontiers and of the important vital centres near the frontiers;

The time required, varying with different States, to transform peace armaments into war armaments;

The degree of security which, in the event of aggression, a State could receive under the provisions of the Covenant or of separate engagements contracted towards that State?

(*b*) Can the reduction of armaments be promoted by examining possible means for ensuring that the mutual assistance,

economic and military, contemplated in Article XVI of the Covenant shall be brought quickly into operation as soon as an act of aggression has been committed.

Question V I.

(*a*) Is there any device by which civil and military aircraft can be distinguished for purposes of disarmament? If this is not practicable, how can the value of civil aircraft be computed in estimating the air strength of any country?

(*b*) Is it possible or desirable to apply the conclusions arrived at in (*a*) above to parts of aircraft and aircraft engines?

(*c*) Is it possible to attach military value to commercial fleets in estimating the naval armaments of a country?

Question V II.

Admitting that disarmament depends on security, to what extent is regional disarmament possible in return for regional security? Or is any scheme of disarmament impracticable unless it is general? If regional disarmament is practicable, would it promote or lead up to general disarmament?

The Preparatory Commission began to work on this programme in May 1926, entrusting to its Sub-Commissions and advisory organisations a certain number of tasks of which the results are described in the following chapters.

3. Additions to the programme of security.

In the course of the work several questions were raised which made it necessary for the Council Committee to intervene. They concerned proposals made by the French, Polish and Finnish Delegations during the debate on the questionnaire concerning security. The object of the French proposal was :

(1) To establish methods or regulations which would faci-

litate the meeting of the Council in case of war or threat of war;

(2) To enable the Council to take such decisions as might be necessary to enforce the obligations of the Covenant as expeditiously as possible;

(3) To investigate procedure for the rapid drafting of recommendations regarding the military assistance provided for by Article 16 of the Covenant, and measures for preventing hostilities, and

(4) To study measures which would enable the Council to give most rapidly such economic and financial help as might be necessary to a State which had been attacked.

The Polish proposal concerned the special organisation of regional assistance.

The Finnish proposal aimed at organising in advance financial assistance for certain States which would be more particularly exposed to attack.

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Such are the general lines of study pursued by the organisations set up by the Council. Numerous meetings have been necessary. The Commission and Committees are still at work. The results obtained, thought not yet definitive, have marked a considerable step forward in the technical preparation of the Conference, and have contributed to the development of the procedure for the pacific settlement of international dispute.

CHAPTER VII

Arbitration and Conciliation.

Once it had been decided that the preparatory work should be resumed, and before the Council and its Committee had drawn up a general programme, the Assembly of 1925 turned its attention to arbitration and conciliation and recommended this procedure to the members of the League.

The debate on the Protocol was still too recent for the Assembly to invite the Council to resume its study of the principles of compulsory arbitration set forth in the first part of the Protocol, as proposed by M. Unden on behalf of the Swedish delegation. Several members of the Assembly had considered that it would be unwise to state in advance that the best means of promoting compulsory arbitration was the constitution of a general and uniform system. It was generally considered that account must be taken of the numerous agreements on arbitration and judicial settlement concluded during the last few years, and that an exhaustive study must be made of them. It would only then be possible to draw the necessary conclusions.

The Assembly also desired to retain the proposal submitted by M. Adatci, on behalf of the Japanese delegation, which concerned not only compulsory arbitration strictly speaking, but also conciliation, the importance of which had several times been recognised.

It accordingly invited the Council to institute a theoretical and practical study of the whole problem of the pacific settlement of international disputes.

The Assembly noted that one of the results contemplated by the Protocol, namely, the absolute prohibition of wars of aggression, could also be obtained by the conclusion of arbi-

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tration conventions between members of the League, such engagements being guaranteed *ipso facto* by Article 14 of the Covenant and, in a special resolution, drew the attention of Governments to the desirability from the point of view of their security, of concluding particular conventions for arbitration or for the judicial settlement of disputes.

I. Arbitration and Conciliation.

In 1926, the League Secretariat prepared at the request of the Council, a systematic survey of the arbitration and conciliation conventions, and of the treaties of mutual security, deposited with the League of Nations.

In the volume published on the subject, the first chapter deals with treaties of arbitration, strictly speaking. The characteristic feature of these Treaties—negotiated as a result of the Second Hague Conference of 1907—is that disputes in respect of which the parties must resort to arbitration are limited in the sense that only disputes of a legal character are to be dealt with by this procedure. There are a certain number of reservations.

Apart from these treaties with a restricted scope, there is another category which provides for compulsory arbitration between the contracting parties over a wider field. Such treaties extend to disputes which are not of a legal nature, and they employ wider terms, such as "the High Contracting Parties undertake to submit to arbitration all disputes of whatever nature, etc."

These treaties which also contain certain reservations, were, in general, concluded in more recent times, particularly after the war.

Chapter II deals with Treaties of Conciliation.

In principle, a treaty of conciliation establishes, as between the parties, an obligation to submit disputes which may arise

between them to a Conciliation Commission or Commissioner. The essential difference between treaties of conciliation and arbitration treaties is that under the former the parties are obliged, in the first instance, to have recourse to the procedure for conciliation, but they are not necessarily obliged to abide by its result. The proposals of a conciliation commission must be, from their nature, optional; whereas the decisions of arbiters are binding.

A considerable number of the conciliation treaties were negotiated after the adoption by the Third Assembly of the League of Nations on September 22nd, 1922, of the recommendation in favour of treaties of conciliation.

These treaties provide for the establishment of permanent commissions of conciliation. They contemplate the procedure of conciliation as a parallel method to that of compulsory arbitration. Disputes capable of judicial settlement are not necessarily to be submitted to the preliminary procedure of conciliation—although the parties may agree that this should be done.

Chapter III concerns treaties of arbitration and conciliation which provide in one and the same instrument for arbitration or judicial procedure, and also for conciliation.

2. Work of the Council.

The Council forwarded the survey prepared by the Secretariat to the 1926 Assembly. It set forth the number of treaties studied, saying that "it was happy to note this striking evidence of the spirit of conciliation which exists in international relations" and adding that "without doubt the most complete success achieved by this spirit in recent times was the Locarno group of treaties".

It had also instituted a study of all the proposals, declarations and suggestions presented to the Assemblywith a

view to the pacific settlement of disputes. It considered that the general impression was that the movement for the pacific settlement of disputes which had undoubtedly starded in the public opinion of all civilised nations, was acquiring an ever-increasing force and should already be regarted as part of the practical policy which a number of States werc in a position to adopt.

The Council then enumerated the various tendencies which might be observed. It noted that the first was towards the development of methods of conciliation :

This method of conciliation is regarded from two points of view — as a preliminary stage, coming before arbitration and judicial settlement in the case of disputes which could ordinarily be settled by those methods if conciliation failed, or as a subsidiary method of settlement for disputes which are not submitted to judicial settlement. The tendency towards the development of conciliation takes two different forms :

(*a*) The consideration of the problem of conciliation as a whole, that is to say, from the standpoint of a general convention for the avoidance and, if possible, the settlement of international disputes by the system of conciliation. This tendency appears in the proposal to consider the possibility of improving the model conciliation convention drafted by the third Assembly (proposal of the Japanese delegation).

(*b*) The discussion of the desirability of establishing special conciliation committees — for example, for the affairs of Eastern Europe, for Eastern affairs, for American affairs — which would be in the nature of advisory committees to advise the Council when necessary.

In the opinion of the Council there was also a tendency to reaffirm, after the failure of the Protocol, the principle of compulsory arbitration. In this connection it noted that certain States Members had continued to be in favour of the general adoption of the principle of compulsory arbitration,

with the creation of arbitration zones which it was hoped would gradually extend.

The Council noted in conclusion that this active movement in favour of arbitration was a sure sign of the goodwill of the different States to establish peace on a solid footing. It considered it possible to hope that the development of such agreements would help to bring about the general solution which the Assembly had so often endeavoured to find. In any event the conclusion of such special agreements, far from being an obstacle to such a solution, could do nothing but assist it.

CHAPTER VIII

Security.

Enquiries into the question of security were undertaken by the Council Committee on Disarmament, assisted by the Committee on Communications and Transit and the Financial Committee.

These enquiries were conducted on the lines indicated by the Assembly, and bear in particular (1) :

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(1) The Report of the Council to the Seventh Assembly in 1926 contains the following passage :

"Side by side with the proposals made for the pacific settlement of international disputes, mention should be made of the views expressed as to the causes of these disputes, so that, in the striking words of M. Scialoja, " law, no longer confined to the external form of international relations, may better regulate these relations themselves ". It is difficult to draw a line between the moment when a dispute could be settled and the moment when it could be avoided. In 1924, when the Protocol was under discussion, M. Jouhaux, of the French delegation, called the Assembly's attention to the economic causes of international disputes and the necessity of coping with them by means of an international organisation. This idea has been expressed on several occasions by the Italian delegation at the Assemblies of 1924 and 1925. It reappears in 1925 in a speech by Dr. Caballero, delegate of Paraguay, and obviously exercised a strong influence on the decision of the sixth Assembly upon the French proposal for the convening of an Economic Conference."

(*a*) on practical measures for strengthening the preventive action of the Council as mentioned in Article 11 of the Covenant,

(*b*) on methods or regulations to ensure the rapid working of the League organs in times of emergency,

(*c*) on financial assistance for States attacked.

At the same time the Council pursued the action which the Assembly had asked it to undertake with a view to the conclusion of treaties of the Locarno type.

I. Measures to facilitate the Application of Article 11 of the Covenant.

The studies of preceding years had shown the importance of the preventive action of the Council. The experience of the Council had confirmed these conclusions; the Preparatory Commission of the Council Committee consequently could not fail to be impressed by the importance attached to the procedure adopted by the Council when acting under Article 11.

Attention was drawn to this question in a report submitted to the Council Committee in December 1926 by M. de Brouckère as a result of which three members of the Council Committee (M. de Brouckère, Lord Cecil and M. Titulesco) were requested to draw up a detailed scheme which the Council Committee terminated and adopted in March 1927, and which the Council itself adopted in December of the same year on the recommendation of the Assembly.

Considering that it would not be advisable to draw up definite rules for the procedure of the Council in cases contemplated by Article 11, the Committee had not endeavoured to establish a code of procedure or to give an interpretation of Article 11. It had confined itself to indicating measures which might be taken by the Council in given circumstances.

These measures are based mainly on resolutions of the Assembly and the Council, and on the precedents established by the Council more especially in connexion with the Greco-Bulgarian frontier incident.

This report sums up the experience of the past few years as regards the prevention of conflicts and constitutes, with due reference to established practice, a guide for the future action to the Council. Its title is : *Report on methods or regulations which would enable the Council to take such decisions as may be necessary to enforce the obligations of the Covenant as expeditiously as possible.*

It should be clearly understood that the measures contemplated below are only cited as examples, and that the value of any other measure which might be taken is neither under-rated nor disputed. It was considered impossible to prescribe by resolutions, recommendations or suggestions, limits to the extensive rights which the League held in virtue of its essential duty, that of effectually safeguarding the peace of nations.

The report emphasises that the procedure instituted under Article 11 in no way implies the exclusion of procedure taken under other provisions of the Covenant. The Aaland Islands question, for example, was referred to the Council by the British Empire in virtue of Article 11, but this did not prevent the Council, acting under Article 4, paragraph 4 (any question affecting the peace of the world) from applying Articles 12, 15 and 17.

If any action is taken by the Council under the provisions of Article 15, the votes of the representatives of the parties will not count for purposes of unanimity as far as such action is concerned. The report referred to in Article 15, paragraph 6, may of course contain any recommendations which the Council may think likely to bring about a settlement of the dispute and prevent a rupture.

The report discriminates between cases where there is no threat of war or where it is not acute, and those where there is imminent threat of war. The measures proposed in the first case are the following :

(*a*) The Council will consider the question at a meeting, to be called specially if necessary, to which the contending parties will be summoned.

(*b*) The Council can request an organisation, or even a private individual appointed by it to exercise conciliatory action on the parties.

(*c*) The Council may also suggest that the dispute be referred to arbitration or judicial settlement, in accordance with the provisions of Article 13 of the Covenant.

(*d*) If there is a doubt as to the facts of the dispute a League Commission may be sent to the *locus in quo* to ascertain what has actually happened or is likely to happen. It is understood that such a Commission cannot go to the territory of either party without the consent of the State to which that territory belongs.

(*e*) If, for the accomplishment of its task, the Council deems it necessary, it can, in certain appropriate cases, ask for an advisory opinion from the Permanent Court, or else, in certain special circumstances, from a Committee of Jurists appointed by it.

and in the second case :

(*a*) Everything should be done to ensure that the Council shall meet with the greatest promptitude.

(*b*) Even before the Council meets, it is desirable that the Acting President should send telegraphic appeals to the parties to the dispute to refrain forthwith from any hostile acts.

(*c*) As soon as the Council meets, it will no doubt verbally urge on the representatives of the nations in dispute the great importance of avoiding a breach of the peace.

(*d*) Further, the Council may take steps to see that the

status quo ante is not disturbed in such manner as to aggravate or extend the dispute and thus to compromise the pacific settlement thereof. For this purpose it may indicate to the parties any movements of troops, mobilisation operations and other similar measures from which it recommends them to abstain.

Similar measures of an industrial, economic or financial nature may also be recommended. The Council may request the parties to notify their agreement on these points within the shortest possible space of time, the length of which will, if necessary, be fixed by the Council.

The details of these measures, and even their nature, obviously depend upon the whole of the circumstances of the dispute. It should be mentioned that, in certain cases with which it has had to deal, the Council fixed a neutral zone on either side, from which the parties to the dispute were called upon to withdraw their troops.

(*e*) In order to satisfy itself of the way in which these measures have been carried out and to keep itself informed of the course of events, the Council may think it desirable to send representatives to the locality of the dispute.

(*f*) Should any of the parties to the dispute disregard the advice or recommendations of the Council, the Council will consider the measures to be taken. It may manifest its formal disapproval. It may also recommend to its Members to withdraw all their diplomatic representatives accredited to the State in question, or certain categories of them. It may also recommend other measures of a more serious character.

(*g*) If the State in default still persists in its hostile preparations or action, further warning measures may be taken, such as a naval demonstration. Naval demonstrations have been employed for such a purpose in the past. It is possible that air demonstrations might within reasonable limits be employed. Other measures may be found suitable according to the circumstances of each case.

If, despite the measures recommended, a resort to war takes place, it is probable that events would have made it

possible to say which State is the aggressor, and in consequence, to enforce more rapidly and effectively, the provisions of Article 16.

2. Working of the League Organisations in times of emergency.

The work of the Committee on Communications and Transit, the Council Committee and the Secretariat in regard to methods and regulations to ensure the rapid working of the League organisations in times of emergency was undertaken for the same purpose as the enquiries concerning Article 11 of the Covenant. In both cases the main preoccupation is to render the action of the Council at such moments as efficacious as possible.

The settlement of the Greco-Bulgarian frontier incident in 1925 had shewn that the rapid action of the Council was an essential factor in the League's intervention, and the Commission of Enquiry despatched to the spot had recommended that Governments and the League Secretariat should be given special transmission and transit facilities in the event of a threat of war. It contemplated more particularly the use of wireless telegraphy and priority messages.

The Council asked the Committee on Communications and Transit to study this question, referring to it later other and more comprehensive proposals of the Preparatory Commission.

a) *Proposals of the Committee on Communications and Transit for the improvement of the League Communications.* — In this way, the Committee on Communications and Transit was led to examine the whole question of communications concerning the League in times of emergency. It considered what special measures might be taken as regards different kinds of communications to ensure that those of interest to the

League, when called upon to act in virtue of Articles 11, 15, or 16 of the Covenant, should work with the necessary speed and security in the event of the convocation of the Council, and as regards relations of all kinds between the States Members concerned, the Council, the Secretariat and missions sent out by the Council.

Expert advice was sought, and the Committee, after a preliminary investigation, proposed technical measures bearing on communications by rail, air, wire and wireless. They include the modification of time-tables in exceptional cases, the organisation of special trains, connections between different means of communication, transit authorisations for aircraft not belonging to a regular service and transporting members of the Council or League officials, the establishment in each country of a central service for the coordination of League communications, etc.

These proposals were adopted by the Committee of the Council and by the Council itself, which, in December 1926, invited States Members to consider the desirability of assuming an obligation to facilitate by every means in their power the most rapid and effective action of the League organs in case of emergency. It also invited them to give favourable consideration to the technical measures proposed and to take any steps which they might deem possible to facilitate their application.

b) *Study of the use of wireless telegraphy.* — Subsequently the Committee on Communications and Transit undertook further investigations with a view to the application of the measures contemplated in its report. These investigations concerned :

a) The identification of aircraft on League service in times of emergency, and accordingly entitled to special facilities;

b) The equipment of a landing-ground for aircraft

near Geneva offering adequate guarantee for all the League's requirements at times of emergency;

c) The identification of persons entitled to the transport and communication facilities in question;

d) Conditions for the flight in transit of aircraft doing service for the League.

The Committee also made a preliminary study of the possibility of providing the League with a wireless telegraphic station. After consulting experts, it drew up a programme for the establishment, at the seat of the League, of a wireless station which would enable it in time of emergency to have urgent radiotelegraphic communication with the countries affected (in particular, European countries), and, in normal circumstances, to ensure as far as possible its regular telegraphic correspondence (Secretariat, delegations).

c) *Agreement of the Members of the League.* — The Assembly approved these results in 1927. It adopted a formal resolution on the rapid working of the League organisations, once more affirming that States Members are under an obligation to facilitate by all means in their power the rapid meeting of the Council in times of emergency, and it invited them to take all the necessary measures in advance. The Council was asked to continue its studies.

3. Measures to facilitate the application of Article 16 of the Covenant — Financial aid for States attacked.

The technical aspect of the question of financial aid for States victims of aggression (Finnish proposal) was considered by the Financial Committee, which drew up a scheme for the organisation of financial assistance by a system under which the credit of the individual country would be strengthened by association with that of other States.

The credits would be obtained in the ordinary way in the money market, and the attacked State would itself contract a loan on the general security of its revenues, with the aid of an international guarantee, whose mechanism would be similar to that of the Austrian Reconstruction Loan. It is proposed that the scheme and general conditions should be embodied in a convention open for signature by the various States, but that a State should not benefit by it unless it accedes within a given period.

This scheme is at present being studied by the Arbitration and Security Committee constituted by the Preparatory Commission in November, 1927.

4. Treaties of Guarantee and Security.

While studying the means of preventing war offered by the Covenant and endeavouring to facilitate the technical preparation and execution of its decisions, the Council did not lose sight of the question of treaties of guarantee and security.

The collection of treaties of arbitration and conciliation prepared in 1926 contains two chapters on treaties of mutual guarantee and the Locarno agreements. The treaties of mutual guarantee published in this volume are usually of greater political than legal interest. The way in which they are drafted shows some signs of the influence of the work done by the League, those more recently concluded containing a statement in one form or another of the principle that the guarantee between States is designed within the framework of the League to reinforce respect for peace by strengthening the sanctions which aggression would incur.

In the report of the Council to the Assembly of 1926, special emphasis is laid on agreements of the Locarno type. It was pointed out that the Locarno agreements might be said to contain in varying degrees all the ideas already embodied in arbitration and conciliation conventions, with the

addition in certain wellknown cases of the idea of military guarantees or sanctions which also figured in the Treaty of Mutual Guarantee of 1923 and the Protocol of 1924.

The Council emphasised the fact that by the Locarno Treaties military intervention on behalf of the State attacked would take place under the strictest international guarantees but that at the same time the sovereignty of the guarantor was scrupulously respected. It further recalled that on several occasions at the Sixth Assembly agreements on the same general lines as the Treaty of Locarno were recommended for other zones of insecurity. Various speakers had emphasised the possibility of achieving the universal solution at which the Protocol had aimed through this more modest system of local solutions which might gradually cover the entire international situation.

CHAPTER IX

Technical Work on Disarmament.

The Preparatory Commission of the Disarmament Conference has now entered upon a decisive stage of its work. It has had abundant material from its Sub-Committees and Technical Committees, the more important part of which is constituted by the report of Sub-Commission A, composed of military, naval and air experts of each of the countries represented on the Preparatory Commission.

I. Report of the Military Technicians (Sub-Commission A).

This document includes about 150 pages and is a series of replies to questions put to the Sub-Commission. These

questions were drawn from the list referred to the Preparatory Commission as its programme of work.

The Sub-Commission held three sessions between May 28th and November 5th, 1926, under the successive chairmanship of M. Cobian (Spain), M. Buero (Uruguay) and M. de Brouckère (Belgium).

The delegations reached agreement on numerous points, on others there were differences of opinion which explain the difficulties encountered later by the Preparatory Commission in reaching a unanimous agreement as to the basic principles of a convention for the limitation and reduction of armaments.

It is impossible to summarise briefly the extremely technical and detailed report of Sub-Commission A. For the opinion of the separate delegations reference should be made to the document itself, which contains, in addition to the replies, numerous detailed statements from one or more delegations.

The principal discussions as to what method of limitation and reduction should be chosen may be summed up as follows :

a) *Land Armaments.* — The main discussion bore upon the kind of armaments to be limited or reduced. Certain delegations considered that a distinction must be drawn between peace-time armaments and war-time armaments, and that only the first should be limited.

By peace-time armaments they understood the forces in service in peace-time (forces organised on a permanent footing) and capable of use without preliminary mobilisation measures, together with their material, live-stock and establishments.

War-time armaments were understood to mean forces capable of use in time of war, namely, trained reserves, mobilisation material (stocks of material, material that can be requisitioned) and all other personnel and material that can

be brought into action in the case of hostilities by means of the general resources at the disposal of each country.

The supporters of this theory maintained that only peace-time armaments could be limited, for the reason that these armaments could be used before the issue of the mobilisation order, and were therefore capable of immediate surprise action.

They considered further that as regards armaments used after the outbreak of hostilities, it was impossible to make an arbitral distinction between those prepared in advance and those manufactured at the outset of mobilisation. In certain cases armaments requisitioned and forming part of the national civil plant are utilised even before the material in stock.

To this argument a certain number of delegations replied by a discrimination between forces in service in peace-time, forces prepared for wartime (reserves of trained personnel, stocks of material and preparations of every description undertaken with a view to war) and the ultimate war forces created during hostilities by means of the general resources at the disposal of each country.

These delegations considered that the last-named class was not properly speaking war material, but that on the other hand, the limitations or reductions might bear in varying degrees on the two first classes.

They also maintained that the fact of possessing trained reserves and material for equipping them made it possible to put immediately numerous units into the field and to obtain decisive results from the outset. They considered that it was impossible not to take these factors into account, and that the trained peace-time reserves and the material stocked for their equipment should be limited. It should be noted that, with these exceptions, the military technicians reached agreement on a certain number of principles concerning the scope and efficacy of methods of limitation.

b) *Naval armaments.* — The Sub-Commission recognised that only warships should be limited and that such limitation should not hamper the construction of merchant ships, while at the same time admitting that the merchant fleets had a certain military value. Certain delegates considered that the military value of such fleets should be taken into account when establishing the ratios for the different navies.

As regards the methods of limitation of warships the naval delegates formed two opposing camps. On the one hand it was maintained that the limitation should apply to the total tonnage of each fleet and leave each country free to distribute and arrange this tonnage in the manner best suited to its defence.

At Washington the limitation only applied to capital ships and aircraft carriers. The supporters of the total tonnage argument maintained that this was no reason to continue the system of classes; in the first place because it was difficult to establish an equitable and uniform definition for all countries; in the second place, because this system presented great disadvantages for States with small navies. Limitation by classes would place the weaker navies at a disadvantage.

These delegations asked that the limitation of naval effectives should be placed on the same footing as that of land effectives.

To these arguments the supporters of limitation by classes replied that the fixing of a total tonnage would virtually nullify the stipulations of the convention. This method would make it impossible to maintain the ratio fixed for the strength of the various fleets. The limitation by classes would alone guarantee that any one navy would not develop into a menace for the security of others.

The partisans of this theory were opposed to a limitation of naval effectives which they considered useless. The de-

fenders of both theories based their arguments on experience. The supporters of the total tonnage argument recalled that the League had failed in 1924 in Rome when it had endeavoured to extend the principles of the Washington Naval Treaty to all States. The partisans of limitation by classes replied that their system which had been applied at Washington had prevented, as regards capital ships and aircraft carriers, an armaments race between the big navies, and that a similar result could be obtained if such limitations were applied to other fleet units.

c) *Air armaments.* — Generally speaking, the Sub-Commission recognised that the technical features of civil planes were, with a slight difference, similar to those of military planes. There was, however, a difference of opinion regarding the question of limitation.

Without entering into the technical considerations put forward by the various delegations, it may be said that a certain number of them maintained that, in order to be efficient, any method applied must provide for the limitation of military and civil aviation as a whole. At the present stage a country desiring to increase its war air power, despite the limitation of its military aviation, could nevertheless succeed in its designs by developing its civil aviation beyond its normal requirements.

Other delegations asked that civil aviation should be left untouched as its purposes were purely economic. Any attempt to limit it would only hamper the development of commercial aviation.

d) *Limitation of expenditure.* — Certain delegations proposed that the national defence expenditure should be limited. They considered that by this means it might be possible to cover armaments which it was difficult to limit directly, in particular, certain classes of material. It would also be a means of controlling indirectly the execution of the limitation of armaments.

Other delegations considered that expenditure did not constitute a real standard for measuring such armaments, and was not an equitable basis for their limitation. The reduction of expenditure would be the automatic result of a limitation of various kinds of armaments.

e) *Different kinds of armaments.* — Numerous delegations maintained definitely their standpoint as regards the necessity of limiting simultaneously land, sea and air armaments. They considered that owing to the interdependence of such armaments, it was impossible to deal with them in separate conferences or conventions.

Other delegations declared that, for practical reasons, it might be advisable to draw up separate conventions. They maintained that in any case it would be impossible to ask the Great Sea Powers to reduce their naval armaments unless such reduction were based on a reduction of the naval armaments of other countries, and not on the reduction of the land armaments of great military Powers.

f) *Supervision.* — The Sub-Commission was in general agreement on the question of general information as provided in Article 8 of the Covenant, and while admitting that it would be possible to complete and develop certain parts of the Military Year-book published by the Secretariat, particularly after the conclusion of a convention, it considered the publication of this year-book was a suitable means of conducting and developing the exchange of information.

Several delegations nevertheless considered that a more effective supervision would be necessary. A disarmament convention which did not provide for supervision would defeat its own end. Other delegations were of a contrary opinion, considering that a disarmament convention could only be based on international good faith. There were further differences of opinion regarding the possible methods of supervision.

Sub-Commission A also had to examine a kindred question raised for the first time in the Preparatory Commission by M. de Brouckère who had contemplated the possibility of investigations in the various countries in the event of complaints regarding the execution of the Convention. The procedure would be similar to that contemplated by Section XIII of the Peace Treaties concerning the statute of the International Labour Organisation.

Certain delegations were absolutely opposed to this procedure which in their opinion would be useless and would only give rise to international mistrust. Others were in favour of it, subject to the adoption of very definite measures of execution which would guarantee the technical efficacy of such enquiries.

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This summary description, which is of necessity incomplete, gives some idea of the difficulties encountered by the Preparatory Commission in drawing up a Disarmament Convention. But the work of the technicians had established clearly the points on which there were differences of opinion and in regard to which the Government delegates had to seek compromise. Their report further constituted an extremely complete repertory of all the military aspects of the problems, and provided the groundwork for an agreement on many of the technical aspects of the limitation of land, sea and air armaments.

2. Report of the Joint Commission.

The Preparatory Commission also considered a report of the Joint Commission.

The Joint Commission had examined, in the first place, whether the supervision of the application of the Disarma-

ment Convention would encounter difficulties from the economic point of view. It had rejected the word "control" as lending itself to very different interpretations and had worked out a procedure which would enable the application of a convention to be watched from the economic point of view. It recommended that a permanent statistical organisation should be set up to centralise and study the data relating to the application of the convention.

As regards the proposal of Mr. de Brouckère to insert in the future convention provisions similar to those contained in Articles 411 to 420 of the Treaty of Versailles (Statute of the International Labour Organisation), the Commission concluded as follows :

> Despite the minor economic drawbacks which such clauses may have and despite the serious economic consequences which certain forms of procedure might involve in case of violation, the Commission once more expresses its conviction that the insertion of the proposed clauses can only serve to enhance the feeling of security, by reason of the stricter — because more closely supervised — application of the Convention.

The report of the Joint Commission also dealt with the following points : the conclusion of an agreement between the chemical industries of the different countries under the auspices of the States concerned which would enable the manufacture of poison gas to be rationed; the limitation of armaments by means of the budget limitation, in addition to the direct numerical limitation of effectives and materials; the influence of economic factors such as the population and various resources of the country, on its armaments and war strength.

3. Other Technical Reports.

The Commission also had reports from two Expert Committees. The Committee on Civil Aviation had examined the

economic consequences to civil aviation which might be entailed by the various systems of limitation of air armaments. It concluded that further development of civil aviation should not be hampered by any military consideration, adding that every effort should be directed towards differentiating more and more clearly between civil and military aviation. The Committee was in favour of the conclusion of economic agreements between civil aviation undertakings in the different countries.

Another Committee, that of the Experts on Budget Questions, drew up a report containing a model statement of national defence expenditure which, if adopted "would serve the purpose of publicity for which it was intended".

4. Work of the Preparatory Commission (Third Session). — Preparation of a draft convention on the limitation and reduction of armaments.

In the light of the work of its Sub-Committees and Technical Committees, the Preparatory Commission examined the draft conventions deposited by the British delegate, Lord Cecil, and the French delegate, M. Paul-Boncour, with a view to establishing a single text which might serve as a basis of discussion for an international conference.

a) *British draft.* — The first article of this draft laid down the general principle of an agreement for the limitation of land, sea and air armaments to the figures to be indicated in the tables annexed to the convention (1).

Article 2 contemplated a certain number of cases in which the convention would be suspended (war, rebellion, a serious emergency or the concurrence of the Council).

Articles 3 and 4 concerned budget expenditure. On this

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(1) It would be left to the General Conference to indicate the figures.

subject, Lord Cecil when depositing this draft, spoke as follows :

> All that we have so far found it possible to insert are two clauses showing that, in the first place, the parties to the convention shall communicate in the form of the model statement which one of our Sub-Committees is in the course of drawing up, an account of every proposed expenditure, and then at a later date, an account of the amount that they actually have expended. I think it is quite possible that some of my colleagues will wish to go further than that. All I can say is that there are grave practical difficulties in going further than that, but of course we should be most ready to take part in any discussion that may be raised on the point.

Thus, one of the first difficulties was raised, namely, budget limitation. For its solution, the British draft only contemplated measures of publicity.

The following three chapters dealt with land, sea, and air armaments.

Concerning land armaments, Lord Cecil said :

> In the fifth article the broad general principle is stated that the limitation of land armaments should be in the main effected by limiting the number of effectives, and there follows a word of explanation that that means troops who can, within a period which is left blank, but a very short period, be used in the front line of the fight. In that matter I can quite conceive that there may be differences of opinion. The British Government have necessarily been guided to some extent by their own technical advisers, but this is a matter which I hope will be capable of arrangement without very much difficulty.

On this point, the British draft contemplated not only the limitation of effectives in service in times of peace, but also that of armaments prepared in view of war and immediately utilisable, thus adopting one of the arguments put for-

ward at the meeting of the Technical and Military Commission.

As regards Naval Armaments, Lord Cecil made the following comments :

> Here we have simply adopted, provisionally at any rate, as we have had the matter discussed, the method of limitation by categories, the method that was no doubt adopted in the Washington agreement. I do not think I need elaborate it as it is very well known to anyone who has discussed the question, and I am myself satisfied that some such arrangement is almost essential for a large naval power, but it is possible that some other solution may be better for other powers. In any case, the one thing that seems to me vital so far as these articles are concerned, is that everyone shall know from the outset what they are to expect in the naval armaments of other countries.

In this respect the British draft accordingly recommended the system of limitation of tonnage by categories. It recognised eleven categories and limited in each of them the separate and total tonnage of ships, the number of ships and the calibre of the guns. It further limited the calibre of torpedoes employed by any kind of vessel.

As regards air armaments, the British draft contemplated the limitation of the number of shore-based aircraft of service types maintained in commission in first line combatant units, within the limits of each State party to the convention. "The point of view adopted (Lord Cecil said), is that for which the air representatives of the British Government contented in Sud-Commission A."

Lord Cecil laid special emphasis on Article 12 of the document. This article provided in certain circumstances for the investigation of facts which one of the contracting parties might bring to the notice of the other contracting parties, should it consider that one of the parties was maintaining

armaments in excess of the figures set out in the convention, or was in any other way violating the provisions of the convention. It was, nevertheless, provided that no investigation within the limits of the territory of any of the contracting parties should be made without its consent.

b) *The French Draft.* — This draft was more detailed than that of Lord Cecil. It included ten tables giving in detail the limitations to be effected by the conference.

Chapter I aimed at the limitation of land, sea and air effectives organised on a military basis.

M. Paul-Boncour said "In Chapter I, I stated a number of theses which might equally well be reproduced in all the other parts, that is that the limitations which an international convention may lay down can only be applicable to permanent peace armaments whether we are dealing with effectives, material or expenditure".

As regards mobilisation, the French draft recalled that the High Contracting Parties remained subject to the general obligations of the Covenant, and to the decisions of the Council. The Secretary-General of the League would be responsible for summoning the Council as quickly as possible.

"Mobilisation", said M. Paul-Boncour, — "it is the task of the League of Nations to make it futile by taking the decisions which it is its duty to take in time and with the necessary speed, with the necessary authority and without respect of Powers whether they be great or small."

The French draft also limited the period of service. The following chapters concerned the limitation of air material, naval material and expenditure.

The chapter concerning air material provided only for the limitation of material in service, as represented by the engine power of all kinds of aircraft, and the volume of dirigibles. There was, however, an article laying down that the limitations

contemplated should be accepted by each High Contracting Party in the light of the present development of civil aviation in other countries.

The article in the French draft also provided for the intervention of a permanent disarmament commission, should civil aviation in one or more of the contracting countries experience such a development as to constitute a possible danger to the security of some of the contracting parties.

The chapter concerning the limitation of naval material contains seven articles of which the first laid down that this limitation should bear on total tonnage.

> Each of the Contracting Parties shall be free to distribute and allocate this total tonnage as may be best for the purposes of security and the defence of its national interests.

A maximum was fixed for the tonnage of vessels and the calibre of guns. It was provided that no war-vessel should be replaced before reaching a certain age-limit, and that in the assessment of total tonnage, account should be taken of depreciation due to age.

The limitation of expenditure was dealt with in Chapter V. The Contracting Parties were to undertake not to exceed a certain figure for their military budgets.

M. Paul-Boncour said :

> In this respect as in others, limitation does not mean uniformity. A country which has a professional army will have to provide for greater expenditure in its budget in proportion to the effectives of its army than a country which has a conscript army; but, allowing for this, the limitation of budget expenditure is, in my opinion, one of the most important questions which the conference we are preparing will have to discuss.

Finally, the French draft contemplated the establishment of a permanent disarmament commission for the centralisa-

tion of all information supplied to the Secretary-General. This Commission would also be responsible for studying such progress as might be made in regard to the limitation and reduction of armaments. It would follow the annual budget statements supplied by the Contracting Parties and make periodical reports which would be published simultaneously with their despatch to the Council and the High Contracting Parties.

In certain specified cases, this Commission would be empowered to decide by a two-thirds majority that an enquiry should be made either on the basis of documents or on the spot.

c) *The draft Convention adopted at first reading.* — At a session which lasted from March 21st to April 26th, 1927, the Commission endeavoured to establish a text which might serve as a basis of discussion in the second reading. It did not succeed in establishing one single text. It was, however, possible to reach unanimity on a certain number of articles. The document finally established showed points on which unanimity was obtained as well as the reservations submitted by various delegations. Where it was not possible to establish a unanimous text the document gave the different proposals submitted.

Generally speaking, it was understoodt hat the acceptance by each delegation at the first reading did not prejudice the attitude it might adopt at the second reading, and did not bind it in any way. Each delegation retains full freedom to reconsider at the second reading the suggestions and proposals put forward, and to submit further ones. The document established is, accordingly, a document for study presenting a complete and detailed basis for discussion.

It begins by a preamble which was not discussed in detail and contains British, French and German drafts.

The first chapter concerns effectives and contains a single

text for all seven articles, to three of which there are no reservations of principle. The first and most important provides that the High Contracting Parties shall limit the effectives in service in their armed forces or land, sea and air formations organised on a military basis and who may for that reason be immediately employed without having to be mobilised, to the effectives determined in the tables annexed to the Convention (1).

A certain number of reservations were made to this chapter. The most important concerns the non-limitation of reserves given military training. The Commission, nevertheless, did not present an alternative text.

Chapter II concerns material. In the first section, which concerns land armaments, a text of the French draft is given together with one deposited by Count Bernstorff, Chief of the German Delegation. This draft aims at the limitation to the figures fixed in the table of the maximum material in service and in stock.

In depositing this proposal, Count Bernstorff said :

> Why is direct limitation so imperative? First, gentlemen, because each State must know the armaments in respect of material possessed by other States, which it must take into account in its estimates. Only in this way can it procure a basis on which to estimate the scale of its own material armaments. No one will question the fact that particulars relating only to expenditure will never afford an accurate idea of

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(1) For land armaments, the following tables were given :
Table I. Maximum home forces.
Table II. Maximum overseas forces stationed in the home country.
Table III. Maximum of total forces stationed in the home country.
Table V. Maximum of the total forces of the High Contracting Parties.
Table VI. Maximum of the forces belonging to formations organised on a military basis stationed in the home country.
Table VII. Maximum of the forces belonging to formations organised on a military basis stationed in overseas territories.

the armaments in material of any country; in particular, it will afford no idea of the stocks of arms and ammunition existing when the Disarmament Convention comes into force.

Section 2 of the same Chapter concerns naval armaments. On this subject there were prolonged discussions, and three drafts were reserved for a second reading :

a) A British draft aiming at the limitation of the number and tonnage of all vessels by categories,

b) A French draft established "with a view to compromise" which was substituted for the original French draft "with a view to finding a formula for agreement", aiming at the limitation of total tonnage, but also at the division of the total tonnage stated by each Contracting Party into total tonnage by groups. These groups would apply to four classes, capital ships, aircraft carriers, service vessels under 10,000 tons and submarines. Each Contracting Party would undertake to fix a maximum tonnage for each of the categories during the period of validity of the convention. Nevertheless, within the limits of the total tonnage stated, each party could alter its division subject to informing the Secretariat of the League of Nations at least one year before laying down the portion of the tonnage to be transferred.

c) An Italian draft, aiming at the limitation of total tonnage, the parties remaining free to distribute and arrange their tonnage to the best advantage for their national interests, subject to communicating to the League Secretariat, at least six months before laying down the keel, the characteristics of each war vessel which it intended to construct.

Unanimous agreement was reached on seven other articles of this section.

Section 3 of the Chapter on material concerned air armaments. The first article provides for a limitation of air material based on the number of aeroplanes in service, and

their total horse-power. A unanimous text was adopted, certain delegations having confined themselves to submitting reservations in view of the second reading.

Another article, also adopted unanimously with three reservations, stipulates that the limitations stated are accepted by each Contracting Party in the light of the present development of civil aviation in other countries.

The whole section concerning air armaments was adopted in the first reading with a certain number of reservations. By its final article, the High Contracting Parties undertake to encourage, as far as possible, the conclusion of economic agreements between civil aviation undertakings in the different countries.

In this connection it may be mentioned that the recommendations of the Preparatory Commission as regards civil aviation were approved by the Assembly in 1927.

Chapter III deals with the annual budget expenditure.

It contains the article of the French draft and the observations of the delegations who were of a different opinion.

Chapter IV concerns chemical warfare and consists of a proposal from the Belgian, Polish, Serb-Croat-Slovene, Roumanian and Czechoslovak Delegations. The discussion of this proposal was adjourned to the second reading.

Chapter V contains miscellaneous provisions. Its first section only contains the French draft concerning the constitution of a permanent disarmament commission.

Section 2 concerns the exchange of information. The first article was adopted unanimously with some reservations, and concerns the yearly publication and despatch to the Secretariat of very complete tables concerning effectives. It is followed by a detailed Dutch proposal for the publication by each of the Contracting Parties of annual statements of the material of its land, naval and air forces.

This is followed by a certain number of articles adopted for a second reading, regarding the publicity of military, naval and air expenditure.

Sections 3 and 4 concern exceptions, and the procedure for complaints and revision. They give the texts of the British and French drafts.

The final section of the draft Convention (ratification, entry into force, denunciation) contains five articles for which the Commission submits a single text with a certain number of reservations.

These texts as a whole constitute the basis for the discussions of the Preparatory Commission in 1928. The Commission will endeavour to adopt a single text which will be forwarded to the Council so that, in the words of the Assembly, it may be able to convene as soon as possible a conference for the limitation and reduction of armaments, to which will be submitted a draft established by the Preparatory Commission.

CHAPTER X

The Three-Power Naval Conference. — Continuation of the League's Work. — Creation of the Arbitration and Security Committee.

Up to 1925 the League had endeavoured to reach a general solution for the problem of arbitration, security and reduction of armaments. From that moment it had suspended its enquiry in this direction, while noting at Council and Assembly meetings the statements of Governments which desired to place on record that this did not imply, on their part,

an abandonment of the principles to which they remained faithfully attached, and that it was only for political reasons that they had agreed to other methods.

Since 1925, in particular, since the conclusion of the Locarno Agreements, the League has no longer sought a general solution, but has encouraged solutions which one may call partial or local. Similarly, it has endeavoured to facilitate the application of the articles of the Covenant concerning the maintenance of peace.

It was to be expected that the League would be obliged to modify, complete and improve its programme. In the course of the work many difficulties were revealed. In 1926, the Assembly had asked that the conference for the reduction and limitation of armaments should be convened before September 1927, unless this was materially impossible. Certain members have since expressed their conviction that it has in fact proved materially impossible to summon the Conference so soon.

Complicated questions, generally of a political nature, arose in the course of the technical work undertaken by the League organisations. The question of security, in particular, preoccupied certain delegations.

Further the Three-Power Naval Conference (the British Empire, The United States, and Japan) which took place at Geneva in the summer of 1927 did not obtain the desired results. There were differences of opinion on several technical questions and it seemed possible that these might complicate the work of the Preparatory Commission in preparing a draft convention, and that the resumption of its work would have to be postponed for longer than had appeared necessary, so as to enable the Governments as far as possible to reconcile their different views.

Although, the Three-Power Naval Conference was not a League Conference, it is necessary for this reason to give a brief description of its results.

I. The Three-Power Naval Conference, Geneva, June-August, 1927.

This Conference was held on the invitation of President Coolidge, shortly after the meeting of the Preparatory Commission.

On February 10th, 1927, President Coolidge had asked the British, French, Italian and Japanese Governments whether they would be disposed to empower their representatives at the forthcoming meeting of the Preparatory Commission to initiate negotiations for an agreement on limitation in the classes of naval vessels not covered by the Washington Treaty. In his message to Congress, President Coolidge explained in a special memorandum that his Government had followed with close attention the proceedings of the Preparatory Commission, and had concluded after most careful deliberation, that it could helpfully make certain observations at this time which it hoped might contribute materially to the success of that Commission, a success earnestly desired by the Government and people of the United States. The discussions of the Commission, he added, had been most valuable in making clear the views of the various Governments as to the problems presented and in demonstrating the complexity and diversity of the obstacles to be overcome. The American Government thought that the conclusion of an agreement for further naval limitation, far from interfering with or detracting from the success of the Preparatory Commission, would constitute a valuable contribution to the achievements of that Commission, and would facilitate the task of the final conference.

The British and Japanese Governments accepted the invitation. The French Government sent an information mission, and the Italian Government an observer. The Conference sat at Geneva from June 20th to August 4th, 1927. At the suggestion of the British and Japanese Govern-

ments acting in agreement with the American Government, the Secretary-General of the League placed the premises of the League at the disposal of the Conference, and gave certain secretarial facilities.

The Conference found it impossible to reach a final agreement, and a joint statement read at the last plenary session explained this position :

> These points of agreement relate particularly to the limitation of destroyers and submarines, and it was only when the Conference took up the question of the limitation of the cruiser class that difficulties were encountered. These difficulties proved to be of a character to render it desirable to adjourn the present negotiations until the respective Governments have had an opportunity to give further consideration to the problem and to the various methods which have been suggested for its solution.
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> The American delegation presented the view that, within total tonnage limitations, which they initially suggested should be between 250,000 and 300,000 tons in the cruiser class for the United States and the British Empire and between 150,000 and 180.000 tons for Japan, each of the Powers should have liberty to build the number and the type of vessel which they might consider best suited to their respective national needs, with freedom, subject to the limitation of the Washington Treaty, to arm these vessels as they saw fit.
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> The British delegates, whilst putting proposals tending to a limitation of the size of vessels of all classes, have opposed the principle of limitation by total tonnage alone on the ground that the largest ship and the heaviest gun permissible must inevitably become the standard. They desired, first, a strict limitation of the number of 10,000 ton 8 inch-gun cruisers, and secondly the establishment of a secondary type of cruiser of a maximum displacement of 6,000 tons, carrying guns of a maximum calibre of six inches. The British delegates contended that the establishment of this type would alone enable the British Empire, within a moderate figure of total

tonnage, to attain the numbers which it regards as indispensable to meet its special circumstances and its special needs.

The Japanese delegates presented the view that low total-tonnage levels should be fixed which would effect a real limitation of auxiliary naval vessels. As for the question of the 8-inch-gun cruisers, while the Japanese Government could not agree to any restriction as a matter of principle, they had no difficulty in declaring that, provided a tonnage level of 315,000 tons for auxiliary surface vessels were fixed for Japan, they would not build any further 8-inch-gun cruisers until 1936, except those already authorised in existing programmes.

At the end of their statement the three Powers expressed their conviction that the obstacles which had been encountered should not be considered as terminating the efforts towards a new limitation of naval armaments.

It was evident that the differences of opinion could not be reconciled before the meeting of the Assembly which took place a few weeks later, in September 1927, and that the discussions of the Naval Conference must have some influence on the work of the League.

2. Work of the 1927 Assembly on Arbitration, Security and Reduction of Armaments.

These difficulties and the situation with regard to the preparatory work of the Conference were brought to the notice of the Assembly of 1927 which, while confirming the guiding principles enunciated by the Assemblies of 1925 and 1926, again defined the League's views on the problem and initiated practical measures designed to advance the work (1).

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(1) In addition to the resolutions on reduction of armaments strictly speaking which are commented upon in this chapter, the Assembly adopted on September 24th

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The Assembly received several proposals in this connection; one, submitted on behalf of the Netherlands delegation, by M. Beelaerts van Blokland, suggested that the Assembly should resume its study of the principles of disarmament, security and arbitration as embodied in the Covenant. Two others were deposited in the course of the session one by M. Paul Boncour, on behalf of the French delegation, the other by Count Bernstorff on behalf of the German delegation.

Dr. Nansen, on behalf of the Norwegian delegation, proposed that an international convention should be drawn up for the compulsory arbitration of disputes.

As regards arbitration and conciliation the report submitted by the First Committee of the Assembly indicates the following points for study, marking the unanimous desire of the Members of the League to enlarge the field of application of pacific procedure :

a) Means should be sought for encouraging and promoting the acceptance of the optional clause of Article 36 of the Statute of the Permanent Court of International Justice and the conclusion of special treaties for judicial settlement, arbitration and conciliation.

b) In any investigation into the methods of pacific settle-

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on the proposal of the Polish delegation, the following declaration concerning wars of agression :

The Assembly,

Recognising the solidarity which unites the community of nations;

Being inspired by a firm desire for the maintenance of general peace;

Being convinced that a war of aggression can never serve as a means of settling international disputes and is, in consequence, an international crime;

Considering that a solemn renunciation of all wars of aggression would tend to create an atmosphere of general confidence calculated to facilitate the progress of the work undertaken with a view to disarmament :

Declares :

(1) That all wars of aggression are, and shall always be, prohibited:

(2) That every pacific means must be employed to settle disputes, of every description, which may arise between States.

The Assembly declares that the States Members of the League are under an obligation to conform to these principles.

ment of disputes between States, special attention should be paid to the procedure of conciliation, which is of the utmost importance.

c) Very special attention should also be given to the question of the relations between the mediatory action of the Council and the Assembly and procedures of arbitration and conciliation.

d) In studying a general convention for compulsory arbitration enquiry should be made as to how the convention could be given sufficient flexibility to permit the contracting States to adjust the obligations assumed to their particular circumstances.

The Assembly was of opinion that the German, French, and Netherlands proposals supplemented one another and might be combined in a resolution expressing the general desire for the completion of the technical work on disarmament, while continuing the enquiry on security, so as to increase the chances of success of the future general Conference for the reduction and limitation of armaments. The first part of the resolution reads as follows :

(The Assembly.)

Being anxious to bring about the political conditions calculated to assure the success of the work of disarmament;

Being convinced that the principal condition of this success is that every State should be sure of not having to provide unaided for its security by means of its own armaments and should be able to rely also on the organised collective action of the League of Nations;

Affirming that such action should aim chiefly at forestalling or arresting any resort to war and if need be at effectively protecting any State victim of an aggression;

Being convinced that the burdens which may thereby be imposed on the different States will be the more readily accepted by them in proportion as ;

(*a*) They are shared in practice by a greater number of States;

(*b*) The individual obligations of States have been more clearly defined and limited :

1. Recommends the progressive extension of arbitration by means of special or collective agreements, including agreements between States Members and non-Members of the League of Nations, so as to extend to all countries the mutual confidence essential to the complete success of the Conference on the Limitation and Reduction of Armaments;

2. Recalls its resolution of September 24th, 1926, which read as follows :

Being desirous that the investigations, in regard to which the Assembly itself took the initiative in its resolution of september 25th, 1925, should be brought to a successful conclusion as soon as possible, it requests the Council to call upon the Preparatory Commission to take steps to hasten the completion of the technical work and thus be able to draw up, at the beginning of next year, the programme for a Conference on the Limitation and Reduction of Armaments corresponding to existing conditions in regard to regional and general security, and it asks the Council to convene this Conference before the eighth ordinary session of the Assembly, unless material difficulties render this impossible.

The Rapporteur, M. de Brouckère, emphasised the desire of the Assembly that a Disarmament Conference should be convened as soon as possible, and that conditions of security should be improved so that the first step might be as large as possible :

> " All the delegations, " he said, "were agreed that the work of disarmament should be prosecuted with the utmost energy, and urged that a further effort should be made to reach a conclusion without delay. At the same time all realised that the proposed movement along the road to disarmament would only be the first step and must be followed by others before any real disarmament could be ach eved. It wass recognied

on all hands that the greater the improvement in conditions of security and the more decided the nature of the first step, the sooner the subsequent steps would be taken. It was therefore felt that to reach definite solutions as quickly as possible, the study of the questions arbitration and security should be resumed on systematic lines.

On this occasion M. de Brouckère noted the continuity of the Assembly's directive.

From the time when the problem of disarmament had first been approached by the League, those dealing with it had been struck by the close connection between that problem and the problem of arbitration and security. In spite of the progress made in arbitration and in spite of the advance made in security, the connection still existed, and it had grown steadily more apparent that, as arbitration expanded, security would increase, and with it the possibility of hastening disarmament. Nevertheless, if some progress had been made in arbitration, and even in security, the first step towards disarmament was still in the trial stage. The will to take this step had been shown frequently. The resolution reaffirmed that wish.

In the text submitted by the Sub-Committee would be found a reference to the resolution of September 24th, 1926, which had been prompted by the belief that from Locarno would result the beginning of security in Europe, and that consequently it was necessary to make a start with disarmament. The text submitted by the Sub- Committee embodied the same principle.

The rapporteur also emphasised the necessity of carefu technical preparation if the Conference were to meet with any chance of success.

The resolution of last year stated that the disarmament Conference should be convened when the preparatory and technical work had been terminated. It was to be hoped that the present Assembly was still of the same mind. The Sub-

> Committee was, in any case, of the same mind. It was useless to convene the disarmament Conference while the technical work was still unfinished. That work had been laborious. It would be resumed and followed up until achieved, and it must be pushed forward as rapidly as possible.

3. Creation of the Committee on Arbitration and Security — Establishment of its programme.

The second part of the Assembly resolution provided for the constitution of an arbitration and security committee to seek a practical solution for this problem within the framework of the League. This Committee was to be an organ of the Preparatory Commission, and its general programme was described in the Assembly resolution :

> The Assembly requests the Council to give the Preparatory Commission, whose task will not be confined to the preparation of an initial Conference on the limitation and reduction of armaments, and whose work must continue until the final goal has been achieved, the necessary instructions for the creation without delay of a Committee consisting of representatives of all the States which have seats on the Commission and are Members of the League of Nations, other States represented on the Commission being invited to sit on it if they so desire.
>
> This Committee would be placed at the Commission's disposal and its duty would be to consider, on the lines indicated by the Commission, the measures capable of giving all States the guarantees of arbitration and security necessary to enable them to fix the level of their armaments at the lowest possible figures in an international disarmament agreement.
>
> The Assembly considers that these measures should be sought :
>
> In action by the League of Nations with a view to promoting, generalising, and co-ordinating special or collective agreements on arbitration and security;

In the systematic preparation of the machinery to be employed by the organs of the League of Nations with a view to enabling the Members of the League to perform their obligations under the various articles of the Covenant;

In agreements which the States Members of the League may conclude among themselves, irrespective of their obligations under the Covenant, with a view to making their commitments proportionate to the degree of solidarity of a geographical or other nature existing between them and other States;

And, further, in an invitation from the Council to the several States to inform it of the measures which they would be prepared to take, irrespective of their obligations under the Covenant, to support the Council's decisions or recommendations in the event of a conflict breaking out in a given region, each State indicating that, in a particular case, either all its forces, or a certain part of its military, naval or air forces, could forthwith intervene in the conflict to support the Council's decisions or recommendations.

Explaining this part of the resolution, M. de Brouckère said :

It had been enquired whether. side by side with a Committee working in the interval between sessions on the task of ensuring disarmament, it would not be useful to form a Committee to study the question of security. It was obvious that such studies for ensuring real security would be extremely complex and very technical, and they could be brought to a successful conclusion only by a continuous effort. It had been realised that neither the work of the Preparatory Commission nor that of the Committee for Security — if it might thus be called — would have any real practical result unless it was carried on simultaneously. Experience had shown that in the course of the preparatory work problems of security arose at every moment.

The Preparatory Commission must be in a position to obtain explanations, and M. de Brouckère considered that,

once the Committee on Security had been constituted, it should be acquainted with the studies of the other Commission in order to be able to work satisfactorily. A close liaison was therefore indispensable, and it was in order to secure such liaison that it had been proposed to establish not only a moral tie, resulting from the closeness of the goals sought by the two bodies, but also an organic bond, in order. that the Security Committee might be at the disposal of the Preparatory Commission on Disarmament in carrying out the enquiries undertaken.

The Rapporteur also pointed out that each of the articles of the Covenant contained resources of which full use had not yet been made, and that important results might be obtained by studying them. As regards the paragraph of the programme concerning special agreements between members of the League, the report contained the following passage :

> The agreements are not in any way to be confused with such alliances as it was possible for countries to contract for political purposes of one kind or another before the Covenant of the League established general principles and obligations which introduced a measured harmony into international life. The agreements referred to in the resolution are to be regarded as means for enabling States which wish to enter into closer mutual engagements than are provided by the Covenant to help each other to discharge more effectively, so far as they are concerned, the obligations embodied in the Covenant itself. These agreements, therefore, are to be regarded simply as instruments for applying the principles of the League more effectively in specific regions.

The final paragraph of the programme of the Arbitration and Security Committee concerned the military, naval or air forces that States might contribute to support the Council's decisions. The report gave the following explanations.

> There is no question of asking the Council to send to States Members of the League a questionnaire regarding their inten-

tion in all imaginable cases. The idea which the Commission wished to express is that the Committee which it has suggested should be set up should be instructed to study the form in which the Council should ask the different States to inform it what measures they would be prepared to take to support its recommendations or decisions in certain cases which the said States might indicate. It is understood that States will have all possible liberty to reply in such manner as they think best to these enquiries by the Council.

The object thus sought is to render it easier for individual States, at the disarmament Conference, to fix the lowest possible figure for their armaments, by enabling them to graduate them in proportion to the guarantee of security afforded by the assistance on which in certain circumstances they might be able to rely.

4. Fourth Session of the Preparatory Commission. First session of the Arbitration and Security Committee

The Preparatory Commission constituted the Arbitration and Security Committee during its fourth session which took place at the end of November 1927.

The creation of this Committee was the principal item on its agenda, the continuation of its technical work (the preparation of a draft convention) having been postponed till its fifth session. Nevertheless, during the short debate on the progress of the work, the delegate of the Union of Socialist Soviet Republics, who attended for the first time, read a statement on behalf of his Government, depositing a proposal which set forth a series of measures with a view to complete and universal disarmament within four years at the latest. He added that his delegation would be willing to take part in all discussions in so far as they concerned practical measures, and that it would be prepared to sign a convention on the prohibition of the use of chemical and bacteriological weapons.

After a short discussion, the Commission, with the agree-

ment of the Russian delegate, decided that the examination or this proposal should be postponed to its fifth session when the second reading of the draft convention would take place.

It then proceeded to the constitution of the Arbitration and Security Committee.

All States Members of the League represented on the Preparatory Commission are represented on the Arbitration and Security Committee. The delegate of the Union of Socialist Soviet Republics sits as an observer.

The United States representative, recalled the statements made by former American representatives, explaining the historic attitude of his country towards the political problems of Europe; that attitude was simple and consisted in its determination to leave to European States those matters which were peculiarly their own concern.

He emphasised his Government's intention and desire to continue to participate in the labours of the Preparatory Commission, and stated that when the Arbitration and Security Committee submitted its recommendations to that Commission, his Government would be glad, in the light of its traditional historic policy, to take these recommendations into careful consideration.

Once constituted, the Committee met and elected as Chairman Dr. Benes (Czechoslovakia). At its first meeting it confined itself to examining the programme drawn up by the Assembly and appointing three rapporteurs, M. Holsti (Finland) for questions of arbitration and conciliation; M. Politis (Greece) for security agreements, and Mr. Rutgers (Netherlands) for the study of articles of the Covenant. These rapporteurs received detailed instructions regarding the reports which they were called upon to submit.

a) On arbitration the Committee adopted the following main outlines :

Treaties of Arbitration.

1. Measures for their promotion.

Resolution of the 1926 Assembly; Recommendations to States Members and offer of the Council's good offices.

2. Suitable means of co-ordination and generalisation.

Two methods may be indicated :

(1) An analytical study of existing treaties for the purpose of extracting the substance common to all of them on which a model convention might be based;

(2) A study of the draft optional convention for the obligatory arbitration of disputes, submitted to the Third Committee by Dr. Nansen on behalf of the Norwegian delegation. taking into account the following recommendations of the First Committee of the Assembly.

b) For security agreements the work of the rapporteur was to be based on successive resolutions of the Assembly and on the experience gained in the course of numerous discussions bearing on the subject of special treaties. The object of this work was to seek means of encouraging and coordinating security agreements; to study in what way the Council might offer its good offices to the parties concerned for the conclusion of such agreements, and how existing security treaties might afford the Council means of action when called upon to apply articles 10,11 16 and 17 of the Covenant; finally, to define the agreements which the States Members of the League might conclude among themselves, without prejudice to their obligations under the Covenant, to arrange in advance commitments they would be disposed to accept, taking account of the degree of solidarity, geographical or otherwise, existing between them and other States.

The rapporteur will also study the procedure to be followed by the Council to give effect to the last paragraph of the Assembly resolution concerning measures which States would be prepared to take to support the Council's decisions

or recommendations in the event of a conflict breaking out in a given region.

For the study of these questions, the Committee disposes of considerable material collected by the Secretary-General on the following points :

1) The legal position resulting from the application in peace time of measures of economic pressure contemplated in Article 16, in particular the maritime blockade.

2) Legislation to facilitate the enforcement of economic sanctions (on this subject a questionnaire has been sent to Governments).

3) Information on the economic and financial relations of States.

PART 2

SPECIAL QUESTIONS

CHAPTER I

1. The St. Germain Convention of 1919.

Article 23 (*a*), of the Covenant entrusts the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest.

At the time of the Peace Conference, it seemed indispensable to exercise supervision over large quantities of arms and munitions of war, the dispersal of which would have constituted a danger to peace and public order.

The delegations to the Peace Conference had also expressed the view that the treaties and conventions, and particularly the Brussels Act of July 2nd, 1890, regulating the traffic in arms and ammunition in certain regions, no longer met existing conditions, which required more elaborate provisions applicable to a wider area in Africa, and the establishment of a corresponding regime in certain territories in Asia.

This question was dealt with in the Convention signed at St. Germain-en-Laye, on September 10th, 1919. The Convention contained twenty-six articles divided into five chapters. The first chapter embodied a general prohibition of the export of arms of war and only provided for certain exceptions to be granted by the Contracting Parties

as regards export licenses to meet the requirements of their Governments or those of the Government of any of the High Contracting Parties.

A central international office, placed under the control of the League of Nations was to be established for the purpose of collecting and preserving documents of all kinds, with regard to the trade in an distribution of arms and munitions.

The other chapters dealt with the so-called prohibited zones under maritime supervision which included certain African and Asiatic territories.

2. Failure of the St. Germain Convention.

The problem of the trade in arms was brought before the League not only by Article 23 of the Covenant, but also in the course of its studies made in virtue of Article 8 of the Covenant on the private manufacture of war material.

The Temporary Mixed Commission had, in 1921, expressed the opinion that one of the essential factors in an agreement dealing with private manufacture was the supervision of the international trade. It had asked the Assembly to do all in its power to bring about the general ratification of the St. Germain Convention. This Convention could only have its full effect if ratified by all powers and especially by those with a highly developed arms and munitions industry.

An enquiry made by the Secretary-General on this subject showed that there was little chance of getting the Convention brought into force. Only eleven States had ratified it. Several important industrial powers hade made their ratification conditional on that of all the signatories. The United States of America in reply to a note of the Secretary-General, had stated that "while the Government of the United Sattes was in cordial sympathy with efforts to restrict traffic in arms and munitions of war, it found itself unable to approve

the provisions of the Convention and to give any assurance of its ratification."

The work done at the Peace Conference had therefore to be resumed on a fresh basis. It was clear that to gain the adhesion of the United States of America, it would be necessary to establish a system of supervision which would enable that country to cooperate, without binding it as regards the League to obligations similar to those contained in the St. Germain Convention.

3. Preparation of a new Convention.

In 1923 the Fourth Assembly asked the Council to invite the Temporary Mixed Commission to prepare a draft convention to replace that of St. Germain. It recommended the Council to invite the United States Government to appoint representatives to cooperate in this task. The United States Government accepted the invitation and appointed its Minister at Berne, Mr. Grew, to take part in the discussions of the Commission.

The draft convention was completed in the course of 1923 and 1924. It constituted the principal work of the Temporary Mixed Commission during that period, its other studies having been interrupted pending the replies of Governments to the Draft Treaty of Mutual Assistance, which had been forwarded to them by the Assembly of 1923.

The Commission had two preliminary drafts for consideration; one submitted by the Marquis de Magaz (Spain), the other by M. Jouhaux, on behalf of the Labour Group of the Commission.

The feature of the Jouhaux draft was the extremely strict supervision which the League would have exercised over the arms trade by a system of export and import licenses delivered by the Governments concerned and centralised and checked by the League of Nations. The other draft

was more in keeping with the St. Germain Convention, but at the same time took account of the principal objections of the United States Government.

A classification of the arms and munitions to be dealt with in the convention was drawn up by the Permanent Advisory Commission. It divided them into the three following classes : *a*) Arms and munitions exclusively designed for land, sea, or air warfare whatever their mode of employment; *b*) Arms and munitions capable of use both for military and other purposes; *c*) arms and munitions having no military value. It also established a definition of war material and examined the articles of the draft convention from a technical point of view, in particular, those concerning the prohibited zones and supervision.

The final text was established in 1924. The Temporary Mixed Commission had retained numerous suggestions made by the authors of the preliminary drafts including for example, the system of licenses. International control by the League was replaced by a simple system of publicity entrusted to an international central office set up by the Council. It was not specified whether this organisation should be set up within the framework of the League, this question having been left open so as to meet the objections of the United States.

The draft was forwarded to the Assembly and the Council, and by the latter communicated to all Governments. The Council then summoned an international conference which met at Geneva on May 4th, 1925, under the presidency of M. Carton de Wiart, former Prime Minister of Belgium.

4. Conference for the supervision of the Arms Trade.

Forty-four countries accepted invitations to this conference. Among them were Germany, who was not yet a

member of the League, Egypt, the United States, and Turkey. Argentine representatives sat as observers.

In his opening speech the President recalled that the object of the draft prepared by the Temporary Mixed Commission was to restrict purchases of war material to those made by Governments, and to give publicity to the international movement of war material.

a) *Solution of the principal difficulties.* — The principal difficulties dealt with in the discussions were the definition of war material, the categories to come under the system of export licenses and publicity (in particular the question of war vessels), the unification of nomenclature for import and export statistics, the definition of bodies entitled to purchase war material, questions concerning supervision and publicity, geographical and technical problems concerning the prohibited zones.

On all these points, the conference reached unanimous agreement, and the conclusion of the convention was described by the President as marking an important progress in the work for the reduction of armaments. For the first time, he, said "the question of the arms trade has been removed from the domain of private law and brought within that of public international law".

The controversy on international control was settled by the adoption of detailed provisions concerning export licenses and a system of publicity considered as a preparation for a general system of armaments publicity. The suggestion concerning the constitution of a central international office was rejected.

The prohibited zones contemplated by the St. Germain Convention were modified in the light of existing circumstances. Thus Egypt, Abyssinia, Tunis, the Spanish settlements of Northern Africa, Southern Rhodesia and the mandated territory of South-West Africa were not included in

the African prohibited zone. (In the St. Germain Convention, the only territories excluded from this zone were Algeria, Libya, and the South African Union). In Asia, there was also a slight modification of the prohibited zone, Persia and Turkey being no longer included..

The Persian delegation withdrew from the Conference, being unable to agree to the inclusion of the Persian Gulf and the Gulf of Oman in the special maritime zones.

Reservations made by the States bordering on Russia were accepted until such time as that country might accede to the convention.

b) *Connection between the supervision of the arms trade and the private manufacture.* — During the Conference, a question arose in regard to which the League was called upon to make further enquiry.

While studying the question of private manufacture, the League organisations had noted that it was closely connected with that of the supervision of the trade. This interdependence appeared still more clearly during the Conference of 1925, the non-producing States drawing attention to the fact that the supervision of the trade would place them at a disadvantage in relation to the manufacturing countries; the latter would not be reached by publicity, whereas by the agency of the League, the armaments of non-producing countries would be disclosed. Accordingly a clause was inserted in the Final Act of the Conference to the effect that the Governments of the signatories "intend to apply strictly their internal laws and regulations to prevent fraudulent commerce in arms, and to exchange all information on the subject; they declare further that the Convention must be considered as an important step towards a general system of international agreements regarding arms and ammunition and implements of war, and that it is desirable that the international aspect of the manufacture of such

arms, ammunition and implements of war should receive early consideration by the different Governments".

c) *Results of the Conference — Analysis of the Convention.* — The Conference concluded its work on June 17th. It addition to the convention, it drew up a protocol relating to chemical warfare, declaration relating to the Spanish territory of Ifni in North Africa, a protocol of signature, and a Final Act.

The Convention comprises 41 articles and is divided into five chapters. Its object is to establish a general system of supervision and publicity for the international trade in arms, munitions and implements of war and a special system for areas where measures of this kind are generally recognised as particularly necessary.

Chapter I defines the arms, munitions and implements to which the convention applies. They are divided into five categories :

CATEGORY I.

Arms, Ammunition and Implements of War exclusively designed and intended for Land, Sea or Aerial Warfare

A. — Arms, ammunition and implements exclusively designed and intended for land, sea or aerial warfare, which are or shall be comprised in the armament of the armed forces of any State, or which, if they have been, but are no longer comprised in such armament, are capable of military to the exclusion of any other use, except such arms, ammunition and implements which, though included in the above definition, are covered by other Categories.

Such arms, ammunition and implements are comprised in the following twelve headings :

1. Rifles, muskets, carbines.
2. (*a*) Machine-guns, automatic rifles and machine-pistols of all calibres;

(*b*) Mountings for machine-guns;
(*c*) Interrupter gears.

3. Projectiles and ammunition for the arms enumerated in Nos. 1 and 2 above.
4. Gun-sighting apparatus including aerial gun-sights and bomb-sights, and fire-control apparatus.
5. (*a*) Cannon, long or short, and howitzers, of a calibre less than 5.9 inches (15 cm.);
(*b*) Cannon, long or short, and howitzers, of a calibre of 5.9 inches (15 cm.) or above;
(*c*) Mortars of all kinds;
(*d*) Gun carriages, mountings, recuperators, accessories for mountings.
6. Projectiles and ammunition for the arms enumerated in No. 5 above.
7. Apparatus for the discharge of bombs, torpedoes, depth charges and other kinds of projectiles.
8. (*a*) Grenades;
(*b*) Bombs;
(*c*) Land mines, submarine mines, fixed or floating, depth charges;
(*d*) Torpedoes.
9. Appliances for use with the above arms and apparatus.
10. Bayonets.
11. Tanks and armoured cars.
12. Arms and ammunition not specified in the above enumeration.

B. — Component parts, completely finished, of the articles covered by A above, if capable of being utilised only in the assembly or repair of the said articles, or as spare part

CATEGORY II.

Arms and Ammunition capable of use both for Military and other purposes.

A. — 1. Pistols and revolvers, automatic or self-loading, and developments of the same, designed

for single-handed use or fired from the shoulder, of a calibre greater than 6.5 mm. and length of barrel greater than 10 cm.

2. Fire-arms designed, intended or adapted for non-military purposes, such as sport or personal defence, that will fire cartridges that can be fired from fire-arms in Category gory I; other rifled fire-arms firing from the shoulder, of a calibre of 6 mm. or above, not included in Category I, with the exception of rifled fire-arms with a " break-down " action.
3. Ammunition for the arms enumerated in the above two headings, with the exception of ammunition covered by Category I.
4. Swords and lances.

B. — Component parts, completely finished, of the articles covered by A above, if capable of being utilised only in the assembly or repair of the said articles, or as spare parts.

CATEGORY III.

Vessels of War and their Armament.

1. Vessels of war of all kinds.
2. Arms, ammunition and implements of war mounted on board vessels of war and forming part of their normal armament.

CATEGORY IV.

1. Aircraft, assembled or dismantled.
2. Aircraft engines.

CATEGORY V.

1. Gunpowder and explosives, except common black gunpowder.

2. Arms and ammunition other than those covered by Categories I and II, such as pistols and revolvers of all models, rifled weapons with a " break-down " action, other rifled fire-arms of a calibre of less than 6 mm. designed for firing from the shoulder, smooth-bore shot-guns, guns with more than one barrel of which at least one barrel is smooth-bore, fire-arms firing rimfire ammunition, muzzle- loading fire-arms.

Chapter II lays down that Governments only shall have the right to export or import arms of the first category (exclusive war utility). Exceptions are contemplated in the case of manufacturers of war material and duly authorised rifle clubs or similar associations. Consignments for export must be accompanied by a license or declaration of the importing Government. Arms of the second category (possible war utility) may also only be exported under cover of export documents.

As regards the foreign trade in the first and second categories, the Convention provides for publicity, in the form of the regular publication of statistical returns within two months of the close of each quarter. The trade in arms of the third and fourth categories, *i. e.* warships and aircraft, is subject to publicity regulations only. The trade in arms of the fifth category is free.

Chapter III defines the system to be applied to certain areas referred to as *Special Zones*. These comprise :

a) A land zone consisting of the African Continent, with the exception of Egypt, Libya, Tunisia, Algeria, the Spanish possessions in North Africa, Abyssinia and the Union of South Africa, together with the territory under its mandate, and of Southern Rhodesia. This zone includes the adjacent islands situated within 100 marine miles from the coast, Prince's Island in the Bight of Biafra, St. Thomas, Annobon and Socotra, but not the Spanish islands north of 26° north

latitude; it includes further the Arabian peninsular, Gwadar, Syria, Lebanon, Palestine, Transjordania and Iraq;

b) A maritime zone, including the Red Sea, the Gulf of Aden, the Persian Gulf, and the Gulf of Oman, bounded by a line drawn from and following the latitude of Cape Guardafui to the point intersection with longitude 57° east of Greenwich and proceeding thence direct to the point at which the eastern frontier of Gwadar meets the sea.

To these zones the export of all arms save those of the third category (warships) is forbidden except under certain conditions. It may be authorised, if the High Contracting Party exercising sovereignty, jurisdiction, protection, or tutelage over the territory to which the export is consigned is willing to admit the articles in question and if these articles are intended for lawful purposes.

Chapter IV contains three provisions of a special nature. The first relates to Abyssinia, whose Government has expressed its willingness to put into force in its territory measures designed to give effect to the provisions of Chapter III; the second relates to the reservations which a certain number of countries bordering on Russia may wish to make in order to adapt the general principles of the Convention to the special position in which they might be placed owing to the non-adhesion of Russia; the third provides for the case of countries possessing extra-territorial juridiction in the territory of another State.

Chapter V is confined to general provisions. It lays down that the Convention shall not apply to arms forwarded to the military forces of the exporting country, wherever these forces may be, or to those carried by the individual members of such forces or by other persons in the service of the exporter. It is also provided that, in time of war, the stipulations of Chapter II (supervision and publicity) so far as any consignment of arms to, or on behalf of, a

belligerent is concerned, shall be suspended until the restoration of peace.

All provisions of international conventions prior to the present one shall be considered as abrogated in so far as they relate to the matter dealt with therein. The Convention shall not, however, be deemed to affect rights and obligations arising out of the Covenant of the League of Nations, the treaties of peace signed in 1919 and 1920, the Washington Treaty of February 6th, 1922, and other treaties and engagements concerning the prohibition of export, import or transit of arms.

Disputes arising between the Contracting Parties as to the interpretation or application of the Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. Should the parties to the dispute not be signatories of the Statute of the Permanent Court, the dispute shall be referred either to the Permanent Court or to a court of arbitration constituted in accordance with the Hague Convention of 1907, or to some other arbitral tribunal.

The Convention will come into force after ratification by fourteen Powers. Ratification and subsequent accessions will be notified to the French Government.

Up to the present the Convention has been signed by thirty-four States, but has only been ratified by France, China and Venezuela. This delay is attributed to the fact that States are awaiting the work contemplated in the Final Act with regard to the international aspect of the manufacture of arms, munitions and war material.

CHAPTER II

Private Manufacture of Arms and Munitions.

Paragraph 5 of Article 8 of the Covenant notes "that the manufacture by private enterprise of munitions and implements of war is open to grave objections". The Council is invited to advise "how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those members of the League which are not able to manufacture the munutions and implements of war necessary for their safety".

I. First enquiries of the Temporary Mixed Commission. Prohibition or regulation

In 1920 the First Assembly invited the Council to have the question of private manufacture studied by its competent commissions.

Two methods were submitted to the Temporary Mixed Commission, one, supported by the labour members of the Governing Body of the International Labour Office, aiming at the absolute prohibition of private manufacture, the other contemplating the control of private manufacture.

The Commission considered that the first method should be rejected as contrary to the interests of States which did not produce all the material they required.

It then drew up and submitted to the Assembly the list of the objections and proposed certain measures as likely to render control more effective, namely :

1) The prohibition of all export of arms without a special license from the Government of the exporting country;

2) The prohibition of all import of arms without a licence from the Government of the importing country;

3) Such licenses to be published by the League of Nations;

4) No munitions or implements of war to be manufactured without a Government licence, and, possibility, that such licences should be published by the League of Nations;

5) Conversion of bearer shares of armament firms to nominal shares;

6) Armament firms to publish, at stated intervals, complete reports on their financial situation, and any contracts entered into by them;

7) An audit of the accounts of private armament firms;

8) No person interested in an armament firm to be permitted to hold stock in similar in other countries;

9) Such persons not to be permitted to publish, or hold stock in companies publishing newspapers;

10) Non-nationals to be prohibited from holding stock in private armament firms;

11) No patent relating to munitions or implements of war to be issued to non-nationals;

12) No warship to be transfered from one flag to another without notice being given to the League of Nations.

2. Preparation of a Convention by the Temporary Mixed Commission.

The Temporary Mixed Commission made the necessary arrangements to comply with the instructions of the Assembly to prepare a draft international convention on private manufacture. It received for discussion a draft treaty prepared by a member of the League Economic Committee, Sir Hubert Llewellyn Smith, and a more complete scheme in the form of a convention which was submitted by one of its members, Colonel Carnegie (Canadian). A convention drafted by a sub-Committee which met in Prague in 1924, was subsequently adopted by the Commission.

The minority of the members of the Commission, composed principally of the labour members, urged that the international control of private manufacture should be strongly organised; but in order to make a agreement possible, they did not press for entire prohibition.

The Commission did not endorse this opinion, but established principles designed to serve as a basis for a convention providing for the national control of private manufacture by a system of licences and for the official publication by the Government concerned of information concerning the licences.

The minority drew up a report observing that in their opinion the text of the Commission was inadequate on the following points :

The international character of control, and the rôle of the Council of the League of Nations in the matter :

Control of the accounts of undertakings for the manufacture of arms and munitions;

Measures calculated to prevent owners, directors or higher officials of private enterprises for the manufacture of arms exercising undue influence over organs of public opinion and in particular over newspapers;

Measures calculated to prevent the establishment of international rings consisting of firms concerned in the manufacture of arms;

Measures to ensure uniform methods in regard to the national inspection of enterprises for the manufacture of arms and munitions and steps to coordinate such efforts by international arrangement(1).

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(1) The report was signed by the three labour members, MM. Jouhaux, Oudegeest and Thorberg, and a Roumanian member of the Commission, M. Jancovici.

3. Position of non-producing countries.

Before giving instructions for the final drafting of the Convention, the Assembly and the Council thought that it was absolutely necessary to await the results of the Conference of 1925 on the supervision of the Arms Trade.

At this Conference, as already noted, the non-producing countries pressed for a system of control of private manufacture which, from the point of view of armaments publicity, would place them on an equal footing with producing countries, and a clause was accordingly inserted in the Final Act to the effect that the international aspect of the manufacture of arms, munitions and implements of war should be examined by Governments as soon as possible.

4. Establishment of a draft Convention.

In these circumstances the Council Committee was instructed to prepare a draft international convention on the private manufacture of arms, and thus to resume the work of the Temporary Mixed Commission. This Committee consulted the different Governments, and in 1926 a draft convention was prepared by three of its rapporteurs. The principal difficulties which had to be solved were the following :

a) *Question of State manufacture.* — A certain number of countries asked that the supervision should bear not only on private manufacture, but also on State manufacture.

b) *National or international supervision.* — Certain Governments were in favour of a national system of supervision; others asked that an international body should be appointed to compile and published information received from the various countries.

The Council Committee endeavoured to solve these diffi-

culties by confining the control to manufacture taking place in establishments of which the State is not the sole proprietor, but extending the publicity to all manufacture whether by private or State enterprise. It hoped in this way to overcome the conflict between the principle of national control and the principle of international control bythe system of publicity. It considered that such publicity was in the spirit of the last paragraph of Article 8 of the Covenant which provides that members of the League shall interchange full and frank information as to the scale of their armaments, their military, naval and air programmes, and the condition of such of their industries as are adaptable to warlike purposes.

5. Connection with the general disarmament problem.

At the 1926 Assembly various delegations drew attention to the close connection between the supervision of private manufacture and of the arms trade on the one hand and the general problem of the reduction of armaments, on the other —a connection which had already been noted by the Council. The Assembly felt that the work on private manufacture, if resulting in a convention, would be a valuable contribution to the preliminary work for the conference on the reduction of armaments.

The Council, accordingly, set up a special commission of all its members and invited the Union of Soviet Socialist Republics and the United States of America to send representatives. The latter accepted and recalled the main lines of their argument which had already been stated by Senator Burton their delegate to the May Conference :

1. The United States Government has for many years collected and published statistics covering the production in this country of arms and ammunitions;

2. The United States would be willing toenter into asuitable

international agreement providing for the publication of such statistics by the governments parties thereto, and

3. Such an agreement to be effective should cover the manufacture of arms and ammunition in both private and government factories. The American Government believed that the principles enunciated would provide a sound basis for an international convention.

The work on the subject is still being pursued, the Assembly of 1927 having requested the Commission to proceed on parallel lines to the Preparatory Commission for the Disarmament Conference.

6. The draft Convention.

Before the Assembly met the Commission had already prepared a draft convention with alternative texts. The main difficulty which still remains to be solved is whether the convention shall apply merely to private manufacture or shall include State manufacture. The Commission was not able to reconcile the various points of view of Governments on the subject, and has not considered itself authorised to make a choice. Nevertheless, the draft, established with sixteen articles and a model statistical statement as annex, gives alternative texts only for the preamble and three articles. The arms categories are the same as in the convention for the supervision of the arms traffic.

The High Contracting Parties undertake not to permit in the territory under their jurisdiction the private manufacture of articles included in the first four articles without the written authorisation of the Government.

The signatories undertake to forward to the Secretary-General or publish within six months after the close of each half-year (June 30th and December 31st) the list of the licences granted during that half-year together with :

a) the kind or kinds of war material which the holder of the licence is allowed to manufacture;

b) the name and address of the registered enterprise or principal seat of the holders of a licence.

The Contracting Parties further undertake to forward to the Secretary-General or publish all statutes, regulations or orders in force within their territory dealing with the manufacture of war material, covered by Article 1. All provisions concerning the application of the convention will be published or forwarded to the Secretary-General.

There are various other provisions concerning publicity upon which unanimous agreement was not reached. The same observation applies to provisions concerning category 3 of war armaments (War vessels).

CHAPTER III

Chemical Warfare.

The question of chemical warfare has engaged the attention of the League of Nations since the beginning. Although during the war this weapon was invariably considered as contrary to the law of nations, it was nevertheless generally employed and intensified.

The problem was complicated by the fact that the substances used may easily be furnished by factories producing in peace time chemical materials for industrial purposes.

The League has aimed at publicity on the danger and horrors of chemical warfare, at obtaining from its members an engagement not to resort to this form of war, and at dealing with the problem as a whole at the eventual conference for the limitation and reduction of armaments.

I. Publicity against chemical warfare.

The question of the use of poison gases in wartime was first put to the Permanent Advisory Commission by the Council. The Commission was of opinion that the employment of gases against non-combatants must be regarded as barbarous and inexcusable, but that it would be useless to seek to restrict their use in wartime by prohibiting or limiting their manufacture in peace time.

The Council then proposed that Governments should consider the penalties to be imposed upon any nation using poisonous gases in wartime and decided to seek, with the help of competent scientists, a means of effectively preventing their manufacture.

This question was referred in 1921 to the Temporary Mixed Commission which discussed the possibility of appealing to scientific men throughout the world to publish their discoveries concerning poisonous gases in order to prevent any State from becoming the sole possessor of a weapon of this description.

After consulting the Committee on Intellectual Cooperation, the Temporary Mixed Commission came to the conclusion that an appeal of this nature was not a practical measure for the following reasons. A chemical process invented by a scientist cannot be used for war before it has been officially tested. These tests are generally secret. It is moreover difficult to ensure that all new methods are published, and this fact would place countries responding to the appeal at a disadvantage as compared with those who do not. The Temporary Mixed Commission considered that it was essential that people should grasp the importance of the problem, and, for purposes of publicity, asked the Committee to draw up a report on the possible effects of the chemical weapon in the event of a future war.

With the approval of the Assembly, this Committee began work in 1923. It drew up a questionnaire which was forwarded to a certain number of scientists. A detailed report was prepared which explains the effects of substances which are now known, examines the possibility of fresh discoveries and studies means of protection, drawing conclusions which the Temporary Mixed Commission adopted in its report in 1924.

The report explains that chemical weapons produce extremely varied physiological effects.

There are no conceivable limits to their power, their efficacy, and their variety, any more than there are limits to plarmacology or any other branch of chemistry. The effects on unprotected persons are extremely serious. They may be mitigated by adequate protective measures, but the problem of the protection of the civilian population has not been solved. It is to be feared that unscrupulous belligerent powers will not discriminate between the use of poison gases against troops on the battlefield and their use against the centres which provide such troops with the means of fighting. It is therefore indispensable that all people should realise the terrible menace which this arm constitutes.

The Assembly noted the report and requested the Council to publish it if such a course appeared advisable, and to encourage efforts making information on the subject generally accessible to the public. It added that the attention of public opinion throughout the world should be drawn to the necessity of endeavouring to remove the causes of war by the pacific settlement of disputes, and by the solution of the problem of security so that nations might no longer be tempted to use their chemical, industrial or scientific powers as weapons of war.

The Council expressed the hope that the Assembly delegates would do all in their power to make the report known in their respective countries.

2. Undertaking not to resort to chemical warfare.

The Assembly of 1922, while approving the measures proposed by the Temporary Mixed Commission to enlighten public opinion, adopted a resolution recommending that States members of the League and other nations should accede to the Treaty concluded at Washington on February 6th, 1922, on the use of asphyxiating gases and submarines in time of war, and other similar questions.

Article 5 of this Treaty reads :

> The use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices, having been justly condemned by the general opinion of the civilised world and a prohibition of such use having been declared in treaties to which a majority of the civilised powers are parties (1).
>
> The Signatory Powers, to the end that this prohibition shall be universally accepted as a part of international law binding alike the conscience and practice of nations, declare their assent to such prohibition, agree to be bound thereby as between themselves and invite all other civilised nations to adhere thereto.

The Council accordingly decided on January 31st, 1923, to place the accession of States to the Washington Treaty on the agenda of an international conference for the reduction of naval armaments which it was proposed to hold in Geneva in the near future. This conference did not take place, owing to the failure of the preparatory work of the Naval Sub-Committee in Rome (1924).

The discussion of the question was resumed by the inter-

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(1) The Treaties referred to in the first paragraph of this article are the peace treaties which all contain an article beginning " The use of asphyxiating poisons, or other gases, and all similar liquids, materials, or devices being prohibited... ".

national conference (May 1925) for the supervision of the trade in arms. Senator Burton (United States) proposed to prohibit the export of asphyxiating gases and other poisonous substances for warlike operations. The Polish delegation asked that the prohibition should include bacteriological weapons.

The Conference noted that this prohibition would not prevent the chemical weapon from being used by States possessing a chemical industry, and that it would be extremely difficult to apply, as chemical war products are very similar to those used in industry or for pharmaceutical purposes. It concluded that the most simple solution would be to ask all States to give a formal undertaking not to resort to chemical warfare. A Protocol was drawn up in the following terms:

> The Undersigned Plenipotentiaries, in the name of their respective Governments :
>
> Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and
>
> Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and
>
> To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;
>
> Declare :
>
> That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

3. Preparatory work for the Conference on the limitation and reduction of armaments

Such formal undertakings were not sufficient to allay the anxiety of those who feared a return to the practices of chemical warfare, and in the course of the preparatory work for the Disarmament Conference during the last two years, the question of chemical warfare was once more raised as likely to gain in importance in the event of the limitation of the quantity or strength of war material not prohibited by the law of nations.

At the request of the British delegation, the Preparatory Commission for the Disarmament Conference referred to its technical sub-commissions questions concerning the time required for the adaptation of chemical factories for the manufacture of poison gases, the means required for such transformation, the time and means necessary to equip civil or military aircraft for chemical warfare, the effect of the distribution of poisonous gas over closely populated districts, possible penalties for a State resorting to chemical warfare. The Military Sub-Commission and the Joint Commission sought the advice of civilian experts and recognised unanimously that, according to the amount to be manufactured and the nature of the peacetime production, the time necessary for the transformation of factories and aircraft might vary from some hours to several weeks. It would take longer if a chemical industry had to be built up from the beginning and if there were no factories which could be made use of.

The Military Sub-Commission did not see how it was possible to prevent such transformation. The Joint Commission proposed agreements between the producers of the various countries in order to ration manufacture and to be able to supervise the prohibition of manufacture for purely military purposes. The Joint Commission also suggested that government subsidies for official laboratories or private

institutions for research work on poisonous substances for military purposes should be prohibited.

As regards penalties which might be inflicted on a State violating its undertaking not to resort to chemical warfare, certain members of the military Sub-Commission proposed that immediate reprisals should be organised with the same chemical substance. Other members objected that the organisation of such reprisals would demand preliminary study, and that this would merely imply the recognition of the chemical arm as a legitimate means of warfare.

The Belgian delegation to the Preparatory Commission suggested that an international convention should render compulsory the publication of inventions capable of being used for prohibited forms of warfare. The Military Sub-Commission was of opinion that such a convention would in practice be useless for the same reasons as those given in connexion with the publication of inventions.

The Belgian delegate also asked for consideration of the possibility of inserting in a convention on the prohibition of chemical warfare a clause providing for a procedure of complaint and investigation on the subject, similar to that contained in the charter of the International Labour Organisation. The Committee of Experts consulted by the Joint Commission had expressed the opinion that an international convention for the prohibition of chemical warfare could not be effective without an agreement between the industries concerned. Once such an agreement is concluded, if it is violated by any industry, the syndicate has to settle the incident. If the violation is due to secret manufacture or Government action, the procedure of investigation on the spot may be contemplated without difficulty from the economic point of view. The Committee added that penalties for the guilty would be an advantage for the general prosperity as they would contribute to a feeling of general security.

The Preparatory Commission for the Disarmament Conference did not have sufficient time at its session in March 1927 to find a solution of the problem on the technical basis furnished by its Committees. Without discussion, it confined itself to inserting the proposals submitted in its preliminary draft convention.

CHAPTER IV

The Right of Investigation.

The Treaties of Peace which put an end to the war of 1914 to 1918 all contained at the end of the chapter concerning military, naval and air clauses an article by which Germany, Austria, Bulgaria, and Hungary undertook to lend themselves to any investigation which the Council by a majority vote might consider necessary (Articles 213 of the Treaty of Versailles, 159 of the Treaty of St. Germain, 104 of the Treaty of Neuilly and 143 of the Treaty of Trianon). In May 1920 the Council instructed the Permanent Advisory Commission for military, naval and air questions to study the question and submit rules for the exercise of this right of investigation. The Temporary Mixed Commission also considered the question, but the drafts established were never applied, for the Inter-Allied Commissions of Control continued in office longer than was contemplated by the Treaties. The discussion of the question was resumed in 1924 at the request of the British Government at a moment when it appeared that these Commissions would shortly be disbanded.

I. The Rules of 1924.

The Council had first to settle a preliminary question. Certain Governments which were not represented on the

Council had asked to be represented in virtue of Article 4, paragraph 5, of the Covenant when questions of investigation were discussed. The Council, after taking legal advice, decided to sit with its usual membership.

The Permanent Advisory Commission submitted, in September 1924, a series of draft rules which were much more detailed than those of 1921. The Council adopted them with some modifications. These rules define the duties of the bodies concerned in the investigation.

a) *Rôle of the Council.* — Without prejudice to the right of an individual member of the Council to bring any matter to the direct notice of the Council, every Government member of the League may communicate to the Secretary-General for consideration by the Council any reports or information which in its opinion call for the exercise by the Council of the right of investigation.

Once an investigation is decided upon, the Council will notify the Government concerned, without informing it of the details of such investigation which may bear on the demilitarisation of territories provided for by the treaties, and the military, naval and air clauses of the treaties.

The programme of the investigation and the lists of experts are drawn up by the Council. The Council decides the composition of the Commissions and appoints the presidents, who receive their instructions from the Council and are responsible to it (1).

The Council fixes the period of the investigations and receives all reports and information.

b) *Composition and functions of the Permanent Advisory Commission.* — The Permanent Advisory Commission is

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(1) The Acting-Presidents of the Investigation Commissions are General Baratier, for Germany; General Calcagno, for Austria; General Schuurman, for Bulgaria; and General G. C. Clive, for Hungary.

responsible to the Council for preparing any investigation upon which the Council may decide.

Any State which is not member of the Council, but a neighbour of a State which has given to the former State undertakings by one of the Peace Treaties to submit to investigations, shall be represented on the Permanent Advisory Commission for all questions concerning investigations.

According to the nature and importance of the investigation, the Permanent Advisory Commission will submit to the Council proposals as to the exact composition of the Commission of Investigation. It supplies the presidents with such information as may be necessary, and the presidents address to it copies of reports upon which the Commission forwards to the Council a reasoned opinion.

Members of the Permanent Advisory Commission cannot be members of the Commission of investigation.

c) *Composition and functions of the Commissions of Investigation.* — The members of these Commissions are chosen from a list of experts qualified in the various matters likely to form the subject of investigations. These lists are kept by the Governments of States represented on the Council.

The exact composition of the Commission varies according to the nature and importance of the investigation. It may be fixed by a majority vote of the Council. With the exception of States subject to investigation, the States represented on the Council, when an investigation is decided upon will be represented in principle on every commission of investigation.

Every local investigation will be carried out by at least three experts of different nationalities.

The presidents of the Commissions will not reside in a State subject to investigation except during the period of investigation. They can, within a period fixed by the Council

and with its approval, detach groups to remain at points in demilitarised zones where continuity of investigation is required (1).

d) *Powers of the Commissions of Investigation and facilities to be granted by Governments subject to investigation.* — The rules were completed by a report on ways and means of assuring to the Commissions of Investigation free and complete execution of the duties entrusted to them.

This report was drawn up by the Permanent Advisory Commission with the assistance of a committee of jurists, and was adopted by the Council in September 1924. It is in two chapters, the first dealing with the powers of the Commissions, the second with the facilities which Governments should grant them. It is the duty of the Government concerned, on receipt of a notification from the Council that it has decided to exercise its right of investigation, to take all measures to ensure that the Commission may accomplish its mission to the fullest extent in complete freedom and without encountering resistances, whether active or passive, on the part of any authority or of the local population. The Government concerned must also assure the Commission the legal means for the execution of its mission.

The Council forwarded these rules to the four countries concerned in order to enable them to take the necessary measures to ensure the proper carrying out of the system of at any time put into operation.

The Council drew attention to the fact that in its opinion the essential point in regard to the investigations was that the States concerned were formally bound by treaty to submit to these operations.

e) *Right of investigation in the demilitarised Rhine Zone.* — On the proposal of the French representative, the Council in

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(1) See below amendments to Rules of Investigation.

December 1924 asked the Permanent Advisory Commission to study the application to the demilitarised Rhine Zone of the rules on demilitarised zones. It will be recalled that these rules provided that with the approval of the Council the president of the Commission of Investigation could detach groups to remain at points in demilitarised zones where the continuity of investigation was required.

The Permanent Advisory Commission submitted a report which was not unanimous, and on which the Council did not take any decision. The question was postponed and was only settled in December 1926 when the rules of investigation were revised to take account of the objections of the German Government.

2. Amendments to the Rules of Investigation at the request of the German Government.

In January 1926, the German Government replied to the Council on the subject of the rules of investigation. While stating its readiness to facilitate the investigations which it considered as offering to some extent a guarantee against unjustified allegations, the German Government pointed out that the rules might be interpreted as intending to transform into a permanent control the investigation contemplated in Article 213, which could only apply to specific cases. It stated that the provisions concerning detached groups and demilitarised zones could not apply to the Rhine zone, and that an investigation in that zone could only bear on the general clauses of the treaty concerning armaments (Part V of the Treaty of Versailles), and not on the special articles (42, 43, 44, of the Treaty of Versailles) concerning the zone. Finally the German Government expressed its willingness to grant the Commissions all necessary facilities, but pointed out that the powers requested in regard to German authorities and individuals were in some measure

inconsistent with the German constitution. It hoped nevertheless that it would be easy to reach an agreement on the subject.

The Council discussed these objections when, after the Locarno Agreements, Germany entered the League and became a permanent member of the Council. It adopted the following text as interpreting the Rules of Investigation :

1. The Council of the League of Nations, acting by a majority vote, shall decide in conformity with Article 213 of the Treaty of Versailles, whether it is necessary, in any particular case, to hold an investigation, and it shall then specify the object and the limits of such investigation. The Commissions of Investigation shall act under the authority and on the instructions of the Council; the Council's decisions shall be taken by a majority vote.

2. To render an effective investigation possible, the Commission shall apply to the representative appointed by the German Government or to his delegates, who will procure without delay the assistance of the administrative, judicial or military authority competent under German law. Such investigations shall then be carried out and findings reached as the Commission, acting within the limits of its instructions, may consider advisable, the interested party being given a hearing.

3. The prohibition laid down that the nationals of a State subjected to the right of investigation shall not form part of Commissions of Investigation, shall be understood in the sense that the nationals of the State in the territory of which an investigation is undertaken, shall never form part of a Commission holding such investigation.

4. It is understood that the provisions of Article 213 of the Peace Treaty with Germany, relating to investigations, shall be applicable to the demilitarised Rhine zone as to other parts of Germany. These provisions do not provide in this zone, any more than elsewhere, for any special control by

local standing and permanent groups. In the demilitarised Rhine zone such special groups, not provided for Article 213, shall not be set up except by convention between the Governments concerned.

5. The explanations give in Articles 1, 2, and 3 above naturally apply to cases under Articles 159 of the Treaty of Saint-German, Article 143 of the Treaty of Trianon, and Article 104 of the Treaty of Neuilly.

The Council has been notified by the Conference of Ambassadors of the termination of the Inter-Allied Control in Germany, Hungary, and Bulgaria. It is expected that a similar communication will be received with regard to Austria. The final reports of the Commissions of Control in the three first named countries have been deposited in the archives of the Secretariat.

The Conference of Ambassadors has also informed the Council of the agreements between the Governments represented on the Conference and the Governments of Germany and Bulgaria with regard to the civil aviation regime to be applied in those two countries. A similar agreement has been concluded between the Conference and Hungary.

CHAPTER V

Publications of the Secretariat.

1. Military Year-Book.

The Disarmament Section publishes a military year-book containing general and statistical information on the land, sea and air armaments of most countries.

When the Temporary Mixed Commission proposed that this year-book should be published, it considered that it would have an excellent effect from a moral point of view and would make it possible to refute any alarmist press campaign based on inaccurate information. The year-book was first published in 1924, when it contained information on the armaments of about twenty countries. It has been developed since that date and now contains statements concerning fifty-eight countries, members and non-members of the League.

Each statement is in three parts, the first giving general information on the army, air force, and navy, the second concerns national defence expenditure, the third contains statistical information on the production and exchange of raw material and manufactured wares of importance to national defence. One of the annexes gives extracts of the treaties and conventions in force which concern the limitation or reduction of armaments. Another annex, which was published for the first time in the latest edition, contains graphs giving the position as regards navies of the principal sea Powers in 1913, 1919 and 1926, and statistical tables giving the characteristic features on the armies of all countries.

2. Statistical information on the arms trade.

The Disarmament Section also publishes each year statistical information on the trade in arms, munitions and implements of war. The first publication of this kind was issued at the request of the Temporary Mixed Commission, in view of the preliminary work for the conventions on the arms trade and the supervision of private manufacture.

In 1925 the Fifth Assembly instructed the Secretary-General to continue regular publication of this information, which is drawn from the customs statistics of the various

countries. The document is in three parts, the first containing statistical tables for the different countries of imports and exports classified according to wares, source and destination, and on the general balance of the arms trade. The second summarises in tables the import and export trade in arms and the situation in the different countries. The third gives the official docmuents upon which the tables are based.

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LEAGUE OF NATIONS

ECONOMIC AND FINANCIAL ORGANISATION

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NOTE

This pamphlet is one of a short series issued by the Information Section of the Secretariat of the League of Nations on various aspects of League work. It should not be regarded as an official statement engaging the responsibility of the League; for official purposes, reference should be made to the documents and proceedings of the League of Nations.

Other pamphlets deal with the general work and development of the League, its constitution and organisation, the Permanent Court of International Justice, political activities, financial administration, disarmament, health, mandates, transit, minorities, the administration of Danzig and the Saar, intellectual co-operation, and humanitarian activities.

January 1928.

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THE LEAGUE OF NATIONS

WORK OF THE FINANCIAL AND ECONOMIC ORGANISATION

INTRODUCTION

The Economic and Financial Organisation of the League was created in the first instance in order to give technical advice to the Council. It originally consisted of two Committees, the Financial Committee and the Economic Committee. Later, a consultative Committee was appointed, at the suggestion of the Economic Conference, to supervise the execution of the resolutions of that Conference. The composition of this body is modelled upon that of the Preparatory Committee of the Economic Conference and includes qualified experts on industry, commerce, agriculture, finance, labour and questions affecting consumers.

The Economic and the Financial Committee usually work independently, but they sometimes meet in plenary session in order to consider problems of common interest. Each Committee consists of 12 or 15 members—high officials from Treasuries or Ministries of Commerce, directors of great private banks, eminent economists or statisticians—not official representatives of Governments, but chosen by the Council for expert capacity and special knowledge of certain economic or financial matters. The nature and composition of these two Committees are important as an illu-

stration of the League method in the economic and financial sphere. Not being Government representatives they can come to the discussions with minds comparatively free from political influences or exclusive preoccupations with national interests. It is notable that their resolutions and recommendations, based on technical considerations, have almost always been unanimous.

The experience of the last years has abundantly proved that, when proposals are submitted to Governments, they come with additional force by reason of the fact that the authors are disinterested experts. On the other hand, the members are in touch both with the Governments of the countries from which they are drawn and with business and financial circles.

Their work is unhampered by any rigid rules or constitution. Their number is not permanently limited by any statute. They meet in practice three or four times a year, generally at Geneva, and usually sit for a week or ten days. But they meet oftener and longer if circumstances require; the session of the Financial Committee which was held in 1922 to discuss the reconstruction of Austria lasted four weeks, and some members of the Committee were in Vienna for another two months in order to set the scheme working.

They are free, subject to the Council's approval of general lines of policy and procedure, to conduct their enquiries as they think best and to adapt them to the circumstances of each case. They frequently appoint small sub-committees composed of some of their own members or of specialists drawn from any country in the world.

The secretarial work of these two Committees and their sub-committees is done by the Economic and Financial Section of the permanent Secretariat of the League at Geneva. This section includes an economic intelligence branch which prepares and keeps up to date a number of technical publications.

Functions, Policy and Procedure.

Functions. — With regard to the functions of the League in the sphere of economics and finance, the Covenant itself contains only one specific reference in Article 23 (*e*), which runs :

> ("Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League...)
>
> "(*e*) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection the special necessities of the regions devastated during the War of 1914-1918 shall be borne in mind."

But the economic and financial duties or the League *implied* by the Covenant are far wider than this, and arise in relation to the three main objects of the League, namely.

(*a*) The provision of a means of settlement of disputes and quarrels without resort to war.

It is clear that many disputes and quarrels arise directly or indirectly out of economic conditions, and the Council or Assembly, in forming their judgment upon such disputes, must have the requisite knowledge and advice. Moreover, the Covenant provides for the use of what has been called "the economic weapon of the League", the boycott of any State which flouts certain of its obligations under the Covenant.

(*b*) The removal of whatever disturbs the good understanding between nations on which peace depends, that is, the removal of the causes of quarrels and disputes.

It is evident that the range of possibilities opened up in the economic sphere by this general duty is almost unlimited,

though it is equally evident that any efforts to eliminate the deep-seated economic causes of war have to be made with the greatest prudence and caution.

(*c*) The provision of machinery by which (quite apart from questions of peace and war) the nations of the world may mitigate suffering and promote progress by means of international co-operation.

Here again the opportunities which present themselves may be innumerable. The work of the League described in this pamphlet in connection with general post-war problems falls chiefly under this heading. For instance, the object of the Economic Committee in connection with the equitable treatment of commerce has in the first place been an improvement in the conditions under which foreign traders work. Similarly the enquiry by the Financial Committee into the evils of Double Taxation and Fiscal Evasion are really an attempt to seek to remove in the only way possible, *i.e.* by international action, a system which is unjust both to the individual taxpayer and to Governments.

Policy. — The policy of the Council and—under its direction—of the Economic and Financial Commission has for two reasons been cautious and tentative. The League is a composite association which must take into account the wishes and interests of all its members; its business is to discover and to explore such common ground as exists; it has no power to impose a collective will, but only opportunities to elicit general consent; in short it provides, not a form of government, but a method of co-operation; for while, on the one hand, it may not abandon the idea of progress in every sphere for which it was created, it has to take account of the prevailing tendencies of the Governments of which it is composed. Thus, for instance, in 1923 it was thought wise to exclude from the scope of a general conference recently held on Customs Formalities all questions and all discussions

relating to the tariff and commercial policy of States, not only because many Governments would have been hostile to discussion, but because it could have had no practical result, since international agreements are useless unless they are widely accepted and applied.

The second reason why the Council has pursued a cautious policy is that, many of the problems requiring solution are comparatively new, or present themselves under unprecedented general conditions. Thus, for instance, the nature and extent of double taxation had never been investigated and no attempt to deal with the question by international co-operation has ever been made. It has therefore been necessary to undertake the most careful enquiries before attempting to find a basis on which an international agreement could conceivably be built.

Procedure. — A procedure has therefore been adopted which provides a number of safeguards. Four stages may be distinguished in it.

(1) The Economic and Financial Commission examines any particular subject which is suggested, *e.g.* by the Brussels Conference, as suitable for the League to pursue, and decides whether, and to what extent, it would be in harmony with general opinion, whether it is likely to find acceptance among Governments and is likely to lead to a practical result.

(2) If, after this examination, a problem seems to present chances of action, it is then often submitted to committees of specialised experts which elucidate this or that aspect, and which, by reason of their composition, are often intended to provide a kind of test of the opinion in the countries most nearly concerned. The directions in which real progress is possible in the near future are thus explored.

(3) The Economic and Financial Committees, or one of their sub-committees, then proceeds—always under the general

direction of the Council—to prepare a programme which is carefully confined within the limits previously determined.

(4) The Council is then recommended to summon a general Conference with the object of drawing up on the basis of the programme submitted to it an international convention.

Governments are, of course, free to sign and to ratify such conventions or not, as they wish; but the fact that nationals from many of the participating countries have in one way or another been associated in its preparation generally results in a large number of signatures and ratifications.

Even if these four stages are carried to a conclusion, the work of the League is not done; for most of the international conventions concluded under the auspices of the League contain some provisions : (1) that cases of dispute arising out of the convention shall be submitted in the first instance with a view to amicable settlement to a technical body of the League for an advisory opinion and (2) that information shall be sent by the Contracting States to the Secretariat at regular intervals as to the way in which the Convention is being executed. Of course, at one or other of the stages described above, several questions, such as the scheme of international credits, have proved to be impracticable, or, like the treatment of foreign branches of banks raised in 1921, unripe for international treatment; it has been found necessary to suspend work upon them, merely making recommendations to the various States to adopt certain principles or suggestions; others—double taxation for instance—have not advanced beyond the early stages. It does not follow that the action of the League in such cases has proved fruitless. Progress has not yet gone far beyond preliminary attempts at international collaboration; experimental work is not only necessary to meet the needs of each case; it is also of indirect assistance in preparing the way for future success.

It is not possible to indicate the methods of procedure which have been followed by the Council in dealing with

special problems, as they vary according to circumstances. But three examples may be given in order to illustrate their variety.

In preparing the scheme for the *reconstruction of Austria*, each of the two Committees contributed a part of the work, in collaboration with other Sections of the League, and under the general direction of a special sub-committee of the Council. The object aimed at was a comprehensive settlement which would have political, financial, economic and legal aspects. The paramount pre-occupation was to restore Austrian credit. From this it followed that there would have to be a control of Austrian finances in order to ensure that a general programme of reforms, resulting in a permanent settlement, would be carried out, and also some form of special guarantee for the potential lenders. On the other hand it was essential that the control should be such as the Austrian Government could reasonably be expected to accept. A careful distribution of powers was therefore necessary. Finally it was decided to institute for the purposes of control a single Commissioner-General, appointed by and responsible to the Council alone, and, in order to ensure his freedom from political influences and from the bias of special interests, not chosen from any of the principal guaranteeing countries, or from countries bordering on Austria. The need for a special guarantee was, on the other hand, met by the creation of a special "Committee of Control of the Guaranteeing Governments" which were backing the reconstruction loan, with powers carefully limited and adapted to the purpose of the Committee, *i.e.* the safeguarding of assets assigned for the service of the loan. A somewhat similar framework has been prepared in the scheme for Hungary.

The *Greek Refugee Problem* was of a different kind. Here it was a question not of reconstructing a whole country but of starting a definite piece of productive work, which should

ultimately pay its own way, in order to find employment for refugees by a system of land settlement.

There existed no institution capable of raising the initial credits. This kind of administrative and financial work was not such that the Council could assume immediate responsibility for it. It was decided therefore that, under a protocol signed by the Greek Government, prepared under the auspices of the League and approved by all the members of the Council, a settlement commission should be constituted, consisting of two Greek members, *a representative*—not like the Commissioner-General in the Austrian case, an executive official—of the Council and a fourth member who was to be chairman and have a casting vote, and who, although the appointment was also made by the Council, was to be representative of the relief organisations which had been working on the spot. This Commission is not an executive organ of the Council; it is a separate body with legal personality and it will elaborate and carry out the settlement scheme and will endeavour to raise the foreign credits by the issue of a loan secured upon assets placed at its disposal by the Greek Government. Here is a case where the League has lent the assistance of its technical organisations for the construction of a plan and where political questions involved have been settled in the Council. But once the scheme is set up, the work of the Council consists chiefly of the consideration of periodical reports from its representatives.

An example of a third method for dealing with special cases was the appointment of a *financial adviser to the Albanian Government.* Certain States, for various reasons, do not possess financial, administrative and economic experts with the required experience to enable them to set up an Organisation adequate to cope with the needs of the abnormal period through which the world is now passing. The Council of the League of Nations therefore stated that it was prepared

to consider any request addressed to it by States requiring competent technical advisers, and the Council undertook, with the assistance of the Economic and Financial Organisation, to discover the technical experts who might best be placed at their disposal. This principle was first applied in the case of Albania. The Adviser is not an official and not even a representative of the League, and his powers are not defined in the form of a protocol or other international instrument, but are fixed by the Government whose service he enters. But having been chosen through the League he is naturally in touch with its technical organisations and can count upon their collaboration.

PART I

FINANCIAL WORK

1. International Financial Conference of Brussels, 1920.

It was particularly in the financial sphere that the problems created by the war imposed on the League a series of tasks which fall under the general heading of reconstruction.

The first and most obvious requirement was to obtain some general outline of the facts of the situation. An International Financial Conference was accordingly held at Brussels in 1920. It was attended, as technical experts but not as spokesmen of official policy, by representatives of thirty-nine States, including for the first time enemies and neutrals in the late war.

The delegates submitted written memoranda on the financial position of their respective countries, supplemented by oral statements. Discussions took place on such subjects as budgetary principles and capital expenditure, external and internal borrowing, monetary policy and inflation, the rôle

of central banking, the instability of exchanges, trade barriers and various forms of export credits. The report of the Conference, covering almost every branch of public finance, was unanimous.

The Brussels resolutions were at first attacked, or neglected as doctrinaire. But, gradually, as one Finance Minister after another set himself more or less successfully to put his house in order, their practical value came to be recognised. For the report not only gave for the first time something like a complete view of the financial condition of the world after the war; it reasserted a body of financial doctrine—once orthodox—which had been abandoned and even forgotten in the exigencies of war.

Moreover, the principles laid down at Brussels were soon to be put to a practical test when applied to two specific cases of financial reconstruction which together constitute the earliest and also the most important part of the financial work effected through the League.

2. The Financial Reconstruction of Austria and of Hungary.

Both arose out of the dismemberment of the former Austro-Hungarian Empire. In 1922 Austria, and in 1923 Hungary, appealed to the Council for assistance in obtaining an external loan. Austria was faced by financial ruin, with all the consequent dangers of social disorder and political complications; Hungary, with a sounder economic foundation, was also in serious financial difficulties, with a heavy deficit on her budget, a currency hopelessly depreciated and a demoralised exchange. Both countries were faced with a reparation debt which would in any event be considerable but the exact amount of which had not been fixed. In each case, after the appeal had been made to the League, negotiations with the object of settling political difficulties, and involving

in one case the postponement and in another the limitation of reparation payments, which had proved unsuccessful in other spheres, were resumed. Plans were drawn up by the Financial Committee of the League for financial and monetary reform, to be carried out within a definite period under the supervision of an impartial officer of the Council, and for the issue of loans based on the security of assigned revenues which were recommended to the investing public as adequate —and proved to be so. The necessary public loans—£26 million for Austria and £10 million for Hungary—were successfully issued in various blocks on European markets and in America — in the case of Austria with the help of guarantees given by ten European countries. Trustees were appointed by the Council. And the plans adopted by the Council and carried out by the Governments concerned attained the object in view, viz., to ensure the economic integrity and political independence of the two countries.

But it may be convenient to note, in summary form, some of the main features of these two great experiments in financial reconstruction and international action, and some of the tentative conclusions suggested by the experience of their working (1).

1. The schemes were, in the financial sphere, comprehensive and complete. To stop inflation, they did not merely remove its immediate cause (unrestricted governmental note-printing) by the transference of the monopoly of note issue to a National Bank independent of the Government and working under carefully drawn statutes; they dealt with the secondary and more important cause, the excess of State expenditure over revenue, and provided for budget equilibrium. The machinery for securing performance was equally com-

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(1) The following summary is taken from the "Comments and Conclusions" in a General Survey by Sir Arthur Salter, Director of the Economic and Financial Section of the League of Nations, appearing in two volumes published by the League Secretariat on the Austrian and Hungarian reconstruction work.

plete and comprehensive. At the top was the Council of the League (with its Sub-Committees, the Austrian and Hungarian Committees) supervising the whole task, particularly in its political aspects; assisting the Council were its technical committees, financial and economic, meeting every three months, and its permanent officers, with legal and other qualifications; while in Austria and Hungary the schemes were supervised in each case by the resident Commissioner-General.

And these schemes, together with the mechanism for their execution, were prepared, adopted both by the Council and the countries represented on it and by the Austrian and Hungarian Legislatures, and published *to the world at once and as a whole*. There was no attempt to introduce reform piecemeal, with the danger that it would break down at its most difficult point. On the contrary, adoption of the more difficult features was made easier by the impossibility of picking and choosing, and the knowledge that the plan must go through as a whole or not at all; and confidence was inspired by knowledge of the complete plans and their adoption as a whole, as it could not have been had certain integral portions remained unknown or uncertain.

It should be added that the Protocols gave *pleins pouvoirs* to the Governments for the execution of the schemes.

2. Stabilisation of the currency, while simultaneous with a plan of budget reform, preceded its accomplishment. The resolutions of the Brussels Conference of September 1920 suggested that the way to currency stabilisation was through budget equilibrium. But in 1920 European currencies, though depreciated, were not demoralised; and budgets, though in deficit, were not in chaos. In August 1922 and May 1924, with the Austrian and Hungarian crowns reduced to about 1/15,000 part of their gold value, and budget deficits, mainly as a consequence of the currency instability, incapable of calculation, no such order of events was possible. It was impossible to reform the budget while the currency was falling,

for an estimate made one day was wildly wrong the next. Most of the costs of government follow quickly the changes in the purchasing value of the currency; changes in the receipts from revenue follow much more slowly. It was essential, therefore, to stop the uncovered inflationary issues at once. Budget equilibrium followed; it did not precede.

3. The cessation of unrestricted note issuing did not mean that the Austrian and Hungarian currencies were limited to their previous figures. It meant that further issues were only legally permissible on the basis of the maintenance of a statutory proportion of gold and foreign exchange; the possibilities of increase were therefore dependent upon the inflow of foreign exchange. Within this limit the Banks of Issue were free legally to pursue their own policy. In fact, while maintaining the external value of the crown by the free sale of foreign exchange at a stable rate (in Austria, first in relation to the Swiss franc and then to the dollar; in Hungary to the pound sterling and then—as sterling came on a gold basis—to gold), the Banks also kept internal prices reasonably stable by their note-issue policy. The inflow of foreign exchange with renewed confidence was in fact such as to have made a much larger note issue legally permissible. It would have been impossible, and from every point of view unnecessary and undesirable, to restrict the notes issued to the number at the date of stabilisation, for this number would have been quite inadequate to the normal needs of the country. In fact, during the first two years since the stabilisation, the notes have increased in Hungary about three times and in Austria more than fourfold. But this has not been "inflation", in the sense in which that word denotes an undesirable process, for the increase was made in each case without affecting or endangering either the external value of the crown or raising internal prices. The fact is that, during the later stages of rapid depreciation, the fall in exchange value tends to outrun the increasing number of

notes; in other words, the gold value of the total currency tends to fall. This is partly due to the speculative anticipation of future inflation, partly due to an increased "velocity of circulation" (extension of credit payment, etc.), partly to a reduction of transactions, partly to the use of foreign currencies as a medium. The net result was that the currency in circulation when the League plans were started was quite inadequate to what were bound to be the normal needs of the two countries.

Unregulated issues went to an end in Austria on November 18th, 1922, but as there was a difficult time ahead and it was known that expanding needs would absorb and demand extra currency, a considerable number of notes was printed just before November 18th and kept in hand to be used in the succeeding months. This proved an invaluable resource, capable of employment without in any way depreciating either the external or internal value of the crown. It was a bold expedient fully justified by results. It is also interesting to note that the depreciation of the crown could be stopped, not with the decision in November to stop printing, but directly there was some hope of a real scheme at League reform—a full two months before.

The effect of the inflow of foreign exchange from the reconstruction loans and the homeward flight of Austrian and Hungarian capital with the return of confidence were both relied upon in the currency provisions. They proved much more than sufficient, and, had new notes been issued up to the maximum proportion allowed by the Statutes in relation to foreign exchange cover, the currency must have become excessive, internal prices would have risen and a fall in exchange value would only have been stopped after a drain on the exchange cover and much disturbance. But without those two sources of inflowing foreign exchange, the statutory provisions limiting note issue would have starved the countries of currency.

4. These indirect results of the loans—in evoking confidence, in stimulating the homeward flight of capital—proved of greater importance than their primary purpose of meeting budget deficits during the period of budget reform. For equilibrium between ordinary expenditure and receipts was attained at a very early date. Taking the whole period of reform in each case, the ordinary receipts from revenue considerably exceeded ordinary expenditure (even including in the latter the service of the loan itself). The loans were therefore in effect available partly for clearing off capital burdens and partly for capital investments designed to increase the productive capacity of the two countries.

5. This remarkable result was reached in each case not by a reduction in expenditure but by the rapid expansion of revenue as soon as the economy of the country had a sound currency basis and the taxing authorities had a stable medium of assessment. It was never contemplated that an actual reduction in the total expenditure would be practicable or indeed desirable. Economies were indeed made, but they were offset by increased—and much-needed—expenditure in other directions.

In this respect the two schemes, as worked out, show a marked difference from the schemes as outlined in the original reports. The standard budgets contemplated when the two schemes were started were considerably lower than those agreed to before the control of the two Commissioners was terminated. The original levels taken were, however, intentionally very conservative. Probably no one thought that they could be exactly adhered to; but it was necessary to have a severe standard by which to test and enforce the programme of reforms. In the supervision of the schemes by the Financial Committee and the decisions as to when financial stability could be considered as assured, the most difficult problem was that of the level at which the budget could be regarded as safely balanced. Admittedly it was much higher than

the figure originally fixed in each case; but it was by no means certain that the high levels reached by the revenues during the reconstruction periods were not so high as to impose too great a strain on the taxable capacities of the two countries. It was to this point that the special enquiry in Austria of the Financial Committee in August 1924 was mainly directed.

6. The economic reconstruction of Austria and Hungary was no part of the direct task undertaken by the League. The object of the League schemes was to provide a sound basis on which these countries would themselves build up the best economic structure possible in the circumstances.

The possibility of League help for Austria in certain portions of this task was not excluded, but it was no part of the original task, and in fact it has not so far proved effective. It is sufficient to say here that the economic distress of adjustment was considerable in Austria, though much less than was originally contemplated. Trade depression, as indicated in particular by the unemployment figures, remains serious. It is notable that, as in some other cases, the effect of post-stabilisation unemployment was experienced not in the year immediately following on the stabilisation but a full year and more later.

In Austria the inevitable, and necessary, economic adjustments were indeed both retarded and disguised by the boom resulting from the burst of confidence with which the scheme was launched and the sudden inflow of foreign money both from the loan and the recall of money previously sent abroad.

7. The restoration of the Austrian currency was the first instance of a successful effort to restore one of the currencies which after the war went completely to pieces—fell to less than one-ten thousandth part of their value. Of the others which fell into this category—the German, the Hungarian, the Polish and the Russian—the Hungarian was restored by a

similar League scheme, and the German in conjunction with an international action which in many of its most important features was based on the experience in Austria (1).

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(1) In assessing the place of the Austrian and Hungarian schemes in the post-war financial history of Europe, it is important to study their relation to the German scheme drawn up by the "Committee of Experts" and subsequently adopted at the London Conference in 1924. Attention may be drawn to the following points of resemblance, influence or relevant experience.

(*a*) The demonstration of the recuperative capacity of a country disorganised by complete currency depreciation which was given by the sudden prosperity of Austria in 1923 was useful in assisting the Committee in its primary work of fixing upon reparation payments which would at once be acceptable to the creditors and regarded as practicable by those on whom the financial recovery of Germany depended.

(*b*) The technical principles — the transfer of the monopoly of note issue to an independent Bank of Issue, stabilisation in relation to gold, budget equilibrium— were the easier of adoption because of the proved experience in Austria.

(*c*) The protracted difference of opinion as to whether the "total obligation' of Germany should be fixed at once and for all time or whether this question should be postponed till war debts could be discussed as a whole, and experience of the capacity of a restored Germany as a whole had been obtained, was settled by a practical compromise. The obligations were fixed not "for all time" but "for a considerable period", which was defined as the "period which lenders and investors will have in mind". Experience had shown in Austria that certainty for such a period was a sufficient basis for confidence and financial recovery. The analogy of Hungary, where definite reparation payments were fixed for twenty years, in the scheme which was negotiated a few months before the German one, is even closer.

(*d*) The main system of "control" was different. In both Austria and Hungary the whole budget was under the control of a Commissioner-General. In Germany, for obvious reasons, no such control was considered necessary or practicable. Yet there was one feature of the League control system which proved a useful precedent for the German scheme. There had been a serious difference of opinion as to whether the reparation obligation, when fixed, should be secured by the control of assigned revenues or not. It had been urged on the one side that the creditor would not be assured without such control, and on the other that control would mean wasteful interference and friction. In Austria and Hungary, the League had had the same problem in securing the service of the "reconstruction loans". The solution had been to assign revenues whose normal yield would largely exceed the obligation they secured, any balance being at once returned to the Government. So long as the yield gave a safe margin (which in normal circumstances would be always), it was possible to limit the "control" to little more than a statistical observation of the results, without any interference in the management. The Committee of Experts on the German reparation problem took full evidence as to the working of this system in Austria and incorporated the main principles in their own arrangements for the control of the State revenues which were (with certain other securities) designed to assure the reparation payments.

(*e*) Lastly, the principle of a "transfer" safeguard was invented for and included in the Hungarian scheme, which was approved and published shortly before the Committee of Experts began their examination of the German problem. There

8. It may be well to comment upon some features of the League "control" on which there has been some misunderstanding. It has sometimes been stated that the League, or the States which constitute its executive authority, have seized the occasion of a country's need to institute a foreign tyranny, to destroy the sovereignty of the assisted State, to replace a native by an external Government. Nothing could be further from the facts. The greatest care was taken to create a system at once elastic and, so far as possible, invisible; a system which gives just so much control as, at any moment, is essential to secure the desired object and no more; a method which automatically means less interference as the need is less. The application of this principle to the control of the assigned revenues is shown in the preceding paragraph. The same is true as to the practical working of the control of the budget. If and when the progress made by either Government in executing the agreed reform programme was at any moment inadequate, the Commissioner-General's intervention at once became more active; just so far as the Government proved able to carry through the

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had long been a difference of opinion as to the basis upon which Germany's capacity to pay should be assessed. It was urged on the one side that the natural basis was "taxable capacity". What was the burden on the German taxpayer in comparison with the burden in Allied countries? How much could it reasonably be increased? The answer would give the measure of capacity to pay reparation. It was urged on the other side that taxable capacity only indicated Germany's capacity to pay in German marks, and that reparation involved essentially payments in foreign exchange. The question should therefore be : "How much foreign exchange can Germany obtain?" or, in other words, "What is her potential surplus of exports (visible and invisible) over imports?" The difficulty of this criterion, however correct in theory, was that it involved an impossible calculation which in fact could be little more than guess-work. An exactly similar problem, though on a much smaller scale, had confronted the League in constructing the Hungarian scheme. The solution there found by the Financial Committee (and adopted by the Reparation Commission on the proposal of the League) was to fix the reparation obligation in the first instance in terms of the national currency and to provide for conversion into foreign exchange only so far as the financial position of the country should in fact be able to bear the strain without threatening the stability of the currency. This principle of a "transfer" safeguard was adopted in the German scheme, with some difference of method, and it constitutes what is perhaps technically the most interesting feature of that scheme.

reforms satisfactorily, it became nominal. In the Hungarian Protocol, indeed, drafted after experience in Austria, this principle is exactly defined :

> "The Commissioner-General will not, so long as the progress of the reform scheme is up to or in advance of the programme, . . . object to particular items of expense or require modifications of the taxation system, except on the ground that the particular expense or feature of the taxation system is such (*e.g.*, by involving serious later commitments) as in his opinion to compromise the later progress of the scheme; but if the progress of reform is at any time behind what is prescribed . . . he . . . may object to any item of expense and may also, or alternatively, require the Hungarian Government to increase the yield of existing taxation or to impose new taxes."

As Hungary in fact attained budget equilibrium within a few months, the practical effect of this provision was that, through almost the whole of his term of office, the Commissioner-General did not formally and of right control the Hungarian budget, though its personal confidence in him resulted in the Government constantly asking his opinion as a friendly adviser. So, too, the Protocols in each case provided for the termination of the office of Commissionner-General as soon as financial stability was assured—a provision executed by decisions taking effect in both cases on June 30th, 1926.

The same desire to avoid unnecessary foreign interference is evident in the third element in the "control", the appointment of Bank Advisers. These officers have, both in Hungary and in Austria, served as officers of the National Banks and not of the League. Their advice was the more successful for being at once tactful, invisible and derived from an internal authority.

If, however, control was never more than was essential in the interests of the reconstruction itself, precautions were taken that it should be sufficient. If financial stability should be again endangered—that is if, but only if, either Government should prove unable to maintain the stability now attained on a sound basis—the office of Commissioner-General could be re-established. In the meantime, the mere existence of such a provision might well prove an element of support to a Government struggling, in a difficult period, to keep its expenditure within its resources.

One other misunderstanding needs removing. The similarity in the two principal pieces of financial work undertaken by the League has sometimes suggested that the particular system of control adopted in Austria and in Hungary is the "League system", necessarily applicable in all cases in which League assistance is asked. This is an unwarranted conclusion from two instances. The particular system then applied was chosen because it was considered appropriate to the particular conditions of these two problems. In fact, however, the League has associated its credit with a loan for economic development of a constructive character for Danzig on conditions which secure only the expenditure of the money upon the agreed objects, with the possibility of an accounting control of the securities of the loan. The Greek and Bulgarian refugee loans, again, are associated with a control of expenditure and of assigned revenues without any control of the general State finances. The conditions must necessarily vary with the character and circumstances of the particular problem. The methods hitherto adopted constitute only the guiding experience, not a binding precedent, for any new case that may present itself.

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The financial reconstruction of Austria and Hungary has thus not only restored these two countries ; it formed a

valuable precedent and example for the financial reconstruction of other countries, including both those which have restored, or are restoring, their finances by a national effort and those to which an international scheme has been spplied. It has also tested and proved, and in some respects corrected or supplemented, the principles laid down at the Conferences of Brussels in 1920 and Genoa in 1922. It occupies, therefore, a position of great importance both in the theory and the practice of financial restoration.

3. Settlement of Greek Refugees.

The Austrian and Hungarian schemes had already been launched when a new problem presented itself. The late Greco-Turkish war involved a considerable displacement of population. The Treaty of Lausanne had required members of the Greek Orthodox Church established in Turkey to emigrate to Greece and Moslems established in Greece to emigrate to Turkey. This provision of the Treaty had, however, been anticipated by the flight of a large proportion of the persons concerned. During the retreat of the Greek Army and the capture of Smyrna and the rest of Asia Minor by the Turkish troops in the latter part of 1922, hundreds of thousands of inhabitants of these regions left their homes and fled to the coast, some with the assistance of Dr. Nansen, acting on behalf of the League.

As stated by the President of the Settlement Commission, Mr. Howland, it was obvious that the problem presented by the influx of 1,400,000 refugees into a country small in extent, whose population numbered approximately 5,000,000, involved for the Greek Government and for the League of Nations two elements. On the humanitarian side imagination cannot compass the event. Only those can make the effort of understanding who have seen destitution, misery, disease and

death in all their possible forms; and the scale of this disaster was so unprecedented as to demand even from such persons a new vision.

It required an equal effort of the imagination to picture the possible political consequences of such a catastrophe — consequences to the nation itself, to its neighbours, and from them to the world at large. Habits of order and respect for law disappear when a man sees his wife and children dying of want, and men become anarchists. There were not lacking those who fish in such waters, and who use for that purpose the poacher's apparatus of dynamite. Relief of despair on such a scale is as much a political necessity as a humane responsibility.

In the first months emergency assistance was improvised by American and British charitable societies. Such organisations could not provide the sums necessary for the definite settlement of all suitable refugees in productive work. And the Greek Government, which itself could not hope to accomplish such an immense task without the assistance of an external loan, asked the Council in February 1923 for the moral support and technical help of the League. Such a loan, however, presented great difficulties, for the financial credit of the Government in the money markets of the world had been necessarily weakened by the recent war.

As with Austria and Hungary, the problem was a complex one, with political, technical, financial and legal aspects, and the Council used all the appropriate parts of its organisation to solve it. After preliminary investigations in Greece, the Financial Committee reported in June 1923 on the whole problem, and, after considering their report, the Council approved the main lines of a scheme to be financed by a loan and administered by an independent Settlement Commission.

It proved impracticable, however, to issue a long-term loan immediately, particularly because political conditions in Greece had not become sufficiently stable. The work of settlement was enabled to proceed, however, by advances by the Bank of England in conjunction with the Bank of Greece, on condition that an independent settlement commission should be established on the lines approved by the League.

The functions and composition of the Settlement Commission were laid down in Statutes annexed to the Protocol adopted by the Council in 1923 on the report of the Financial Committee, and signed on behalf of Greece on September 29th, 1923. It consists of four members; the Council of the League appoints two members, including the Chairman, who is always a national of the United States; the two other members are appointed by the Hellenic Government with the approval of the Council. The function of the Commission is "to promote the establishment of refugees in productive work, either upon the land or otherwise in Greece". It is expressly stipulated that the funds of the Commission may not be spent on the relief of distress or for charitable purposes, as distinct from settlement in productive work. All assistance is given on terms involving ultimate repayment.

This first settlement loan was successfully issued in December 1924 in London, New York and Athens. In the meantime, work had been proceeding with the help of provisional advances, which were repaid out of the loan, *i. e.*, £1,500,000 advanced by the Bank of England, £500,000 by the National Bank of Greece, and £1 million by the Hellenic Government.

The proceeds of this loan amounted to £9,707,000. The following was the expenditure on the main groups :

	To December 31st, 1926		To June 30th, 1927	
	£	%	£	%
Agricultural settlement.	7,541,324	97.6	7,911,023	87.2
Urban settlement.	973,082	11.3	1,051,174	11.6
Central administration	95,242	1.1	113,658	1.2
Total . . .	8,609,648	100	9,075,855	100

The sum of £7,541,324 expended on the *settlement of agricultural refugees* was used for the settlement of 147,211 families, an average sum £51 per family.

£973,082 (at 300 drachmæ to the £) were spent on *urban settlement.*

The total number of urban houses erected is 16,756, which gives an average of 22,087 drachmæ, or £73 12s. 6d. per house. These houses are inhabited by some 24,000 families.

Thus by the end of 1926 the back of the problem had been broken. It is impossible to give anything like exact figures of the number of refugees, urban an agricultural, who had by then been definitely settled, as no exact census could be made, the Statistical Services of the State having been temporarily suppressed for reasons of economy. But it is probable that the number of persons who had received assistance was considerably more than 700,000.

No mere figures, however, can measure the wider significance of the settlement work. Its beneficent effects have been felt in the sphere of politics, in achieving, for the first time in history, an almost homogeneous population in this troubled corner of Europe. Economically, the establishment of the refugees in productive work has not only removed a social danger and an economic burden, but has positively endowed

the country with a new source of wealth and prosperity. This is indeed the most remarkable conclusion to be drawn from the experience of the last three years. The refugees have proved to be admirable material; almost everywhere they have made good, whenever even the most slender assistance and encouragement could be given; and it is not too much to say that their final absorption into the social and economic life of the country will leave Greece far stronger and far more prosperous than she could have hoped to become if the influx of refugees had not taken place.

History of the New Loan Scheme.

In March 1927, the Refugee Settlement Commission informed the Financial Committee that the work of establishment could not be satisfactorily completed without an additional loan. At the time when the original scheme was drawn up, the settlement loan had been fixed at a net yield of £10 million in order that Greece might not exceed her borrowing capacity atth at time. The Financial Committee estimated that an amount of £3 million would be required in order to complete the work during the next two years.

In April 1927, on the occasion of a visit to the Balkans of M. Avenol, the Deputy Secretary-General of the League, the Hellenic Government requested him to collect such information as might be necessary to throw light on the financial and budgetary situation.

It then addressed a request to the Council to approve in principle the issue of a new loan and to authorise the Financial Committee to give its assistance to Greece with a view to drawing up a complete plan of monetary and banking reorganisation.

The Hellenic Government and the National Bank further informed the Committee of their intention to stabilise the

drachma on a gold-exchange basis. The Committee stated its opinion that, if the functions of the Bank were revised so as to bring them into closer conformity with modern principles of central banking, and if some £3 millions were devoted to the reduction of the Government debt to the Bank, the latter would be sufficiently strengthened for its enhanced responsibilities, and the definite equilibrium of the budget and the stabilisation of the currency would be practicable in conjunction with a loan of £9 million.

The Council authorised the Financial Committee to continue its collaboration with the Government for the further elaboration of the scheme.

The main problem in evolving a satisfactory scheme was the creation of a Bank of Issue which would fulfil the limited functions of a modern central bank. It was necessary for the economic system of the country to maintain the National Bank of Greece as an ordinary commercial bank and that it seemed therefore preferable to transfer to a new bank its privilege of note issue and those of its other activities which are usually carried on by a Central Bank. On this principle were based the draft statutes for the new Bank and the draft agreement between the Government and the National Bank for the creation of the new institution.

A Protocol in which the various obligations of the Greek Government were precisely defined was signed by the Hellenic Minister of Finance, M. Caphandaris, on September 15th, 1927.

Summary of the Scheme.

The *Protocol* lays down, first of all, the *conditions to which the new loan must conform* in order that it may be issued under the auspices of the League. Its net yield, for instance, may not exceed £9 million. The conditions of the loan as to issue price, rate of interest, etc., must be at least

as favourable to the Hellenic Government as the Refugee Loan of 1924. The period of amortisation must not be less than thirty years.

The service of the loan is to be assured by all the revenues which are under the control of the International Financial Commission in so far as they are not pledged for the service of earlier loans.

If during any six months the available surplus amounts to less than 150 per cent of what is required for the service of the loan during such period, the international Financial Commission shall require the Hellenic Government to assign other additional revenues sufficient to bring the yield again up to at least 150 per cent of the service of the loan.

The service of the loan is to be assured by all the revenues tional Financial Commission, which has been established in Athens since 1898. Since the war it has consisted of three members representatives of the Governments of France, Great Britain and Italy respectively.

The Hellenic Government undertakes legally *to stabilise the national currency* in relation to gold as from the day on which the new Bank of Issue shall begin business. This Bank will be established within six months after the issue of the loan. £3 million from the yield of the loan will be used by the Government to pay off part of the State debt which the new Bank will take over from the National Bank.

The share capital of the new Bank, amounting to 400 million drachmæ will be taken over by the National Bank, which is obliged to offer it for public subscription at par in three issues, the first within two months after the opening of the new Bank and the second and third issues each with a year's interval. The Bank of Greece will have a reserve in gold and gold exchange of not less than 50 per cent of the total of the note circulation and its other demand liabilities. (The sta-

tutes lay down that the reserve shall at least be 40 per cent.) The gradual complete redemption of the State debt to the National Bank and the Bank of Greece after the first payment of £3 million from the new loan also provided for.

The *Statutes for the Bank of Greece* are in general based on the last statutes which had been elaborated under the auspices of the Financial Committee, namely, those for the Estonian Bank of issue, which in turn were based on the Austrian and Hungarian statutes. Certain ideas inserted have been taken from other recent statutes, those of the Reichsbank, the Reserve Bank of South Africa, the Bulgarian National Bank and the proposed Indian Statutes. Other provisions, such as, for instance, the careful definition of the gold reserve, may be claimed to be improvements upon what existed up till now in this domain.

The Hellenic Government undertakes "to make, and to persist in making every effort" to keep the budget during the next two financial years within the present limits "and to maintain thereafter a complete equilibrium between the current revenue and current expenses of the State".

Three million pounds from the proceeds of the new loan, together with some other available resources, will be used by the Government for paying off the *budget arrears.*

The Hellenic Government further undertakes to create a *new system of public accounting* based on the principle of the unity of the State budget, of cash accounting supplemented by liability accounting and of the centralisation at the Bank of Greece of all the receipts and payments of the State and the State enterprises. The Government will *publish* in future *monthly statements* showing the cash position of the Treasury, the receipts and expenditure on account of the budget, the position of Treasury liabilities and the position of the public debt. It also undertakes to issue no Treasury bills or create similar *floating debt* in excess of 800 million drachmæ (*i.e.*, less than one-tenth of the present budget).

£3 million from the yield of the loan will be employed for the refugees by the Refugees Settlement Commission for the purposes described in the Protocol of 1923, or for such other purposes as the Council may approve on the proposal of the Commission.

Conclusion.

In comparing this scheme with other loan schemes prepared by the League, it will be observed that it was possible to make use of machinery already existing. The service of the loan and the control of the revenues assigned for that service are placed in the hands of the International Financial Committee in Athens, which for nearly thirty years fulfilled similar functions for other Greek loans.

The part of the yield which was to be used for the establishment of refugees was to be employed through the intermediary of the Settlement Commission.

In other cases Governments in serious financial difficulties have appealed to the Council of the League and have recognised the necessity and indeed the desirability, of accepting an impartial external control, administered under the authority of the Council. No such necessity arose in this case. The currency was stabilised and the budget was in equilibrium and the foundations on which currency stabilisation and budget equilibrium are based merely required strengthening. The measures provided in the present scheme were therefore directed and confined to this end.

4. Settlement of Bulgarian Refugees

History of the Scheme.

During the almost continuous fighting from the outbreak of the Balkan war of 1912 to the end of 1918, and throughout the troubled post-war period of shifting populations in the

Balkans, considerable numbers of refugees entered Bulgaria from the neighbouring countries. In some cases they left their former homes as the result of international conventions to which Bulgaria was one of the parties; in others the departure was unorganised. The official Bulgarian statistics for the period from 1913 to 1925 recorded that 221,191 refugees of Bulgarian nationality had arrived and remained within the narrowed frontiers of the new Bulgaria. Many of them remained unsettled and continued in the greatest misery. Internally, they naturally formed the material ready to hand for any revolutionary and disruptive forces threatening the social order. As regards external relations, they were not less dangerous. They provided recruits for, and gave shelter to, the comitadjis, whose activities led to so many frontier incidents. Moreover, the presence of so many destitute and miserable refugees, with vivid memories of their expulsion or forced abandonment of their former lands across the frontier—sometimes scarcely out of sight—necessarily constituted a standing menace of more far-reaching and ambitious movements.

It has been obvious for some years, to those who watched the Balkan situation, that a settlement loan, with the aid of which these refugees could be securely settled in their new country, among those of their own race, would not only relieve an immense mass of human misery but would have a stabilising effect on the whole Bulgarian—indeed the whole Balkan—situation altogether out of proportion to the sum involved.

Till recently, however, the internal situation of Bulgaria, and some factors in its external relations, were not favourable to the successful undertaking of such a scheme through the League. The situation was folloved carefully, but as an unsuccessful application for assistance or an abortive attempt to help would have done nothing but harm both to Bulgaria and to the credit of the League, on which ultimate success

would depend, no encouragement to make a formal demand was given in earlier years. By the spring of 1926, however, the conditions seemed favourable and the Bulgarian Government made formal application on May 3rd, 1926. The proposals put forward on the responsibility of the Government contemplated the settlement of 30,180 families on the land and the assistance of some 5,000 families in the towns. The standard sum for the full settlement of a family was fixed at 50,000 levas (or about £75) to cover the provision of a house, an ox or cow, a half use of a plough and cart and a fourth use of a harrow, minor implements, seed and subsistence for eight or nine months. This sum compares with the standard figure of about £100 in the Greek refugee settlement scheme, the difference resulting from variations in local conditions and standards. Only 36 per cent of the refugees, however, were believed to te entirely destitute; 20 per cent had the means of subsistence for a few months; 17 per cent had a house and 27 per cent had a house and implements. Allowing for this, it was calculated that about £1,625,000 would be required for settlement on the land (excluding the cost of preparation of land where suitable land was not available). In addition, it was calculated that, if the 5,000 urban families were to be assisted, £150,000 would be required.

The question of the land required for settlement presented a greater difficulty than in Greece, where the departure of the Turks had left recently cultivated land available and where it was possible to find land for practically all the refugees without reclamation work. In Bulgaria the position was different. The standard allowance per family, under the Bulgarian land law, is 5 hectares. Some 10 per cent of the refugees will, however, be settled in districts of intensive cultivation (vines, orchards, tobacco, silkworms), where only half this land will be required to support a family. The general average may therefore be taken at 4 hectares, or a total of 132,000 hectares.

The full plan of expenditure, presented by the Bulgarian Government comprised :

Country settlements	£1,625,000
Town settlements	150,000
Expropriation	75,000
Clearing.	125,000
Drainage	225,000
Communications	450,000
	£2,650,000

This total was reduced by the Financial Committee to £2 1/4 millions, mainly by the omission of the less urgent railway line and the elimination of the estimate for town settlements.

Before the Council could be asked to associate the League, credit with a loan operation, some important negotiation needed to be undertaken. It was necessary that the Reparation Commission should agree to release from the general reparation charge the revenues on which it was desired to place a first charge in favour of the new loan, and to institute a system which would safeguard the Bulgarian currency (and consequently, the assigned revenues) from losing their value through reparation payments.

The Financial Committee met in special session in London from July 19th to 23rd, 1926, and was able to recommend the President of the Council to authorise the Bulgarian Government to begin negotiations for an advance of £400,000. This sum was obtained in the form of an advance from the Bank of England to the Bank of Bulgaria.

In the meantime, one of the other main obstacles to the issue of a loan had been overcome. Bulgaria owed considerable sums in respect of pre-war loans and, while some payments were being made in respect of these obligations, only short-term arrangements had been made, and the Committee

took the view that, unless a definite settlement were reached, the issue of a loan would be difficult or impossible. Early in September 1926 an agreement covering the major part of these debts was concluded, and the problem was so far reduced in dimensions as to present no obstacle to the final approval of the main scheme of settlement at the September session.

A Protocol, embodying the obligations undertaken by Bulgaria and the system of control was signed by the representative of Bulgaria on September 8th, 1926.

Summary of the Scheme.

The purpose of the scheme is the establishment on the land of refugees exclusively of Bulgarian nationality.

The refugees to be so dealt with have been estimated provisionally as comprising about 30,180 families (or 60,360 persons capable of work, or some 120,000 persons altogether, including children and other dependants).

The scheme is exclusively one of *land settlement*, and does not, like the Greek scheme, include provision for *urban workers*. It is contemplated that the Bulgarian Government will be able to assist, from its own resources, the relatively small number of urban workers requiring assistance.

Settlement will consist of the provision of land, of housing, of supplies in kind of agricultural implements, cattle, seed and in some cases subsistence for a limited period. In addition, expenditure will be allowed in certain cases for purposes of drainage, clearing and communications.

The total loan is to be devoted "as to about two-thirds to the provision of houses, initial equipment and advances, and as to one-third to the preparation of land, so as to make it suitable for settlement and communications". The latter category of expenditure includes some £125,000 for clearing, £225,000 for drainage and £225,000 for communications (mainly the Haskovo-Mastanly railway line).

The Bulgarian Government has undertaken, to provide not less than 132,000 hectares of land which is, or may be made, suitable for agricultural settlement (exclusive of pasture land). This land must be unencumbered property of the Bulgarian Government. It is contemplated that of the above total about 36,000 hectares may require some work of clearing and deforestation and some 21,000 hectares some work of drainage, for which provision has been made in the estimates of expenditure. The remainder will be land immediately available for cultivation without such preparatory work.

The loan was successfully issued in London and New York on December 21st, 1926.

The sterling block amounted nominally to £2,400,000, of which £1,750,000 were offered for public subscription on the London market, the rest being subscribed by financial undertakings in Italy, Switzerland and the Netherlands. The American block amounted nominally to 4,500,000 dollars. The net yield of the two blocks amounted to £2,873,091. Ot this, £625,899 11*s.* 6*d.* was used to satisfy the claim of the holders of Bulgarian Treasury Bills issued in France in 1912 and 1923.

The loan was paid into a special account of the National Bank of Bulgaria, and placed under the control of the Commissionner of the League.

The loan is secured by a first charge upon :

(*a*) The excise duty on salt;

(*b*) The excise duty on alcohol;

(*c*) The net receipts of the match monopoly;

(*d*) All sums received after September 1st, 1928, in respect of rent or interest due from refugees (sums received from refugees in payment for the purchase

of land, buildings or material, or as repayment of advances, will be applied to amortisation);

(*e*) Other additional revenues to be specially assigned if the above revenues should at any time fall below 150 per cent of the annual sum required to meet the service of the loan.

The competent reparation authority (the Inter-Allied Commission at Sofia) has released the above revenues (*a*) to (*d*) and has undertaken to release the further revenues mentioned in (*e*) if required, and the Bulgarian Government has undertaken to give the necessary first charge; it has also undertaken that the assigned revenues shall not be used (*i.e.*, even on the basis of a second charge) as a security for any new loan without the consent of the Trustees.

Trustees have been appointed by the Council of the League te represent the interests of the bondholders of the settlement loan.

The assigned revenues as they are collected are paid into a special account controlled solely by the Commissioner. After the termination of his office, this account will be controlled by the Trustees. The sums required for the service of the loan are retained and devoted to that purpose and the balance returned to the Bulgarian Government.

The terms of issue include provision for an amortisation fund and a reserve fund.

Apart from the specific securities of the loan, two precautions have been taken to safeguard the stability of the Bulgarian currency against a depreciation which might diminish the gold value of the assigned revenues.

The scheme is one of refugee settlement, as in Greece, and not of financial reconstruction as in Austria and Hungary, and direct responsibility with regard to the general finances of Bulgaria is not undertaken by the League. Nor

is such a responsibility required, for the Bulgarian budget has been balanced since 1922, and the leva has been stable for about the same period.

Nevertheless, the Financial Committee has taken the opportunity afforded by the settlement scheme to strengthen the position in two important respects.

In the first place, the powers of the National Bank have been carefully examined and new draft statutes, in harmony with the accepted principles of central banking, have been agreed by the Government.

The second new safeguard is of no less importance. The reparation payments of Bulgaria are prescribed in an agreement of March 1923. The payments last year amounted only to 8 million gold francs, but the annual obligation increases in later years till it reaches in 1924-35 a maximum of a little over 43 million gold francs. The Financial Committee considered that, unless provision was made to secure that demands for such considerable payments in foreign exchange were not pressed without due regard to the exchange position, the stability of the currency might be endangered. The Reparation Commission, has taken a decision under which payments of reparation will, if the need arises from the point of view of their effects on the exchange, be controlled by a Transfer Committee. The Bulgarian Government may request the suspension, "in whole or in part, in the interests of the stability of the exchange", of the purchase of foreign currency necessary for reparation payments. A Transfer Committee, consisting of three "experts on questions of exchange", will then be appointed : one of these members (the Chairman) being a citizen of the United States of America, or of a country which was neutral in the war, to be appointed by the unanimous vote of the Reparation Commission, or, failing unanimity, by the President of the Permanent Court of International Justice at The Hague; one by the Reparation Commission acting if necessary

by a majority; and a third by the Trustees of the settlement loan. This Transfer Committee will then be responsible for purchasing foreign exchange for reparation payments "to the extent to which it considers that the stability of the Bulgarian currency allows".

The control of the execution of the scheme is in the hands of a Commissioner appointed by, and responsible to, the Council of the League. He resides in Sofia and reports at least every three months to the Council. He has authority to engage personnel, including inspectors, within a budget limit fixed by the Council. The proceeds of the settlement loan and of the advance of £400,000 are paid into an account controlled by him. He is responsible for taking all precautions to ensure that the money is expended only upon the specified purposes; for certifying the land prepared for settlement as suitable both in character and in position, and for controlling the assigned revenues account.

Normally every three months, and at other times should occasion require, the general progress of the scheme is examined by the Financial Committee, and by the Council on its advice. The Committee and Council have before them the reports of the Commissioner, who is normally present in person to give further information and explanations.

The Council has recognised that the three neighbour Member States are interested in certain aspects of the settlement work, in particular, the choice of land for settlement in the frontier zones. The land chosen must be at least 50 kilometres from the frontier, unless its geographical formation presents a sufficient natural barrier. It has recognised the right of these three States to form an advisory committee which may meet in Geneva or elsewhere, but not in Bulgaria. The three States, or any one of them, can ask for information from, or present observations to, either the

League or the Commissioner, and will receive copies of official documents submitted by the Commissioner to the Council on such questions as they claim to affect specially their interests. Any one, or all three, may (with or without prior consultation in the advisory committee) send a letter to the Council on a subject affecting its or their interests in the sense of Article 4 of the Covenant, and in that case the State or States concerned would be present at the Council as Members during the consideration of such a letter.

A considerable portion of the legislation required to carry out the settlement scheme was passed by the Bulgarian Parliament on September 30th, 1926. It provided for the ratification of the Protocol, the acceptance of an advance of £400,000 from the Bank of England in anticipation of the loan, and the assignment as security for this advance of certain specific revenues. Full powers were conferred on the Cabinet to take by decree all necessary measures for the employment of the advance and for the settlement of the refugees. Further legislation, relating to the new statutes of the National Bank, as approved by the Financial Committee, was passed in November 1926, and came into force on January 1st, 1927.

The Bulgarian Government, undertook to centralise all its services dealing with refugees under one authority. This organisation was set up by the Bulgarian Government under a law voted on December 9th, 1926, and promulgated on December 14th. A Director-General for the Settlement of the Refugees was appointed, with wide powers, and was made responsible for all work connected with the execution of the plan, either directly through his own staff or through certain Government departments.

The first duty of the General Directorate established by the Bulgarian Government was to draft the plan of settlement.

The plan included a census of the families in need of relief, a description of the relief to be granted to each family, particulars as to the amount of land available and the work to be done in preparing it, together with an approximate estimate of the cost of settlement under each of these items.

The total estimated expenditure for the scheme as thus provisionally planned was estimated at about 1,221 million levas, or £1,817,000. In that figure, however, certain expenses which could not at that early stage be estimated were not included.

The total area of land included in the plan and available for settlement was 175,000 hectares, which was in excess of the area required under the Protocol. Part of this total area, however, could not be used, either because its preparation would be too costly or because its situation rendered it unsuitable for settlement in view of certain decisions taken by the Council.

The Bulgarian authorities, working in co-operation with the Commissioner of the League, proceeded at once with the preliminary work of settlement without waiting for the general plan to be finally established. In the period between November 15th, 1926, and February 15th, 1927, 1,547,065 kilogrammes of seed were distributed to 4,110 families at a total cost of over 10 million levas. The General Directorate also prepared plans and estimates for the construction of dwellings, and issued instructions to the competent services to draw up plans for the draining of marshes or flooded areas, and the construction of the railway from Rakowsky to Mastala (1).

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(1) The Bulgarian Government has since asked the League to study a plan for the financial reconstruction of Bulgaria. The plan which has been drawn up by the Financial Committee and approved by the Council is, generally speaking, similar to that adopted in Greece and provides for an international loan of £4 1/2 millions sterling.

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These four definite pieces of reconstruction in Austria, Hungary, Greece and Bulgaria constitute the main financial work of the League during the past five years.

In each case the Government concerned took the initial step. Not only was no action taken without its consent but every device compatible with the smooth and sure execution of the scheme was used to eliminate the undue influence of interested parties and to respect the independence of the borrowing country. In each case there was a special problem of great magnitude, proved to be beyond the unaided resources of the country and to threaten its financial stability—situations so acute or menacing as to have grave political implications and to constitute matters of international concern.

The League itself could not, of course, provide the money. Its action was confined, in the first instance, to defining the objects in view, to preparing a scheme selecting adequate securities for a loan, giving its moral support by devising a mechanism whereby those securities might be safeguarded and the proceeds of the loan spent exclusively upon the objects selected. It was left entirely to the Governments concerned to negotiate the loans on the market of the world on the best terms they could obtain on the basis of the schemes prepared and the undertakings entered into at Geneva. Beyond this the Council assumed the further responsibility of appointing persons—commissioners and trustees—in various capacities and with varying degrees of responsibility.

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In addition to these four main tasks the Financial Committee has given advice on many other matters.

5. Estonia

In September 1924, the Estonian Government requested the Financial Committee to advise it as to what financial policy it should pursue. An enquiry was made on the spot.

In the autumn of 1926, the Estonian Government asked for further advice, in view of the fact that it was considering important financial reforms. Upon the report of one of its members, M. Albert Janssen, who made a special visit to the country, and after hearing M. Sepp, the Minister of Finance, and Sir Walter Williamson, Financial Adviser to the Estonian Government, the Financial Committee on December 8th, 1926, submitted to the Council a report and a Protocol which was by the Estonian Government on December 10th, 1926.

The Protocol provided for the preparation of three laws by the Estonian Government in co-operation with the Financial Committee, viz. :

(*a*) A law for reforming the Bank of Issue and including the Statutes of the said Bank.

(*b*) A law for the transfer to the Bank of Issue of the State note issue.

(*c*) A currency law.

The text of the laws was adopted by the Estonian Legislature on April 29th, 1927. The principles on which they are based were as follows :

(1) The Bank must have the sole right of note issue.

The Government and local authorities must have no right to issue notes or to borrow from the Bank, except in the case of the Government, which may borrow in temporary anticipation of revenue and subject to prescribed conditions of repayment.

(2) The Bank must be a central bank, fulfilling the functions of a bankers' bank.

(3) The Bank should guide the monetary policy of the country and fix the bank rate.

Its duty is to keep the value of the monetary unit stable, neither attempting an appreciation nor allowing a depreciation.

It is proposed, that the gold exchange standard system of currency should be adopted in Estonia and that the Bank should be placed under a statutory obligation to redeem its notes in stable foreign exchange within two years after the enactment of its statutes and maintain the value of the currency within the gold points.

(4) The Bank should not allow interest on current accounts or accept fixed-time deposits.

(5) The main business of the Bank should be the discounting of commercial bills of a self-liquidating character, corresponding to real and normal transactions; these bills should bear the signature of at least two solvent persons and should not have a longer currency than 90 days, except in the case of agricultural and timber bills, for which a maximum currency of six and nine months respectively may be admitted.

In no case should the Bank make, or be entitled to make, unsecured loans or give long-term credit

(6) The Bank should act as cashier for the State.

6. Danzig

Financial questions connected with the Free City of Danzig, which is placed under the special protection of the League of Nations, have occupied a great deal of the Committee's time.

During the last five years, always under the advice and on the basis of schemes approved by the Committee, Danzig has created a new currency based on the gold exchange standard, founded a new Bank of Issue, and raised two foreign loans, one in London in 1925 and the second in London and Amsterdam in 1927.

7. Double Taxation and Fiscal Evasion

The financial tasks which have been described so far resemble each other in that they all arose directly or indirectly out of the war, were confined to single countries and limited to a given period.

Two other pieces of work—double taxation and fiscal evasion and the suppression of counterfeiting currencies—have a wider scope.

The International Financial Conference held at Brussels recommended that the League of Nations should take up the question of double taxation. The Financial Committee, to which the question was referred towards the end of 1920 entrusted the theoretical study of double taxation to four economists (1), whose report was published in March 1923.

Meanwhile, the International Economic Conference, which met at Genoa in April 1922, recommended that the League should also examine the problem of the flight of capital.

In June 1922, the Financial Committee decide to have both questions, namely, double taxation and tax evasion, studied from an administrative and practical point of view. It entrusted this work to a group of high officials of the fiscal administrations of various countries.

Notwithstanding the great difficulties of the question, these experts, after holding several meetings, agreed upon

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(1) M. Bruins, M. Einaudi, M. Seligman and Sir Josiah Stamp.

a series of resolutions, which they submitted, together with a general report, to the Financial Committee in February 1925. They suggested, that the Committee should be enlarged and requested to prepare preliminary draft conventions based upon the resolutions adopted up to that date.

A Committee composed of a dozen experts was constituted (1).

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(1) This Committee consisted of the following members :

Argentine. — Dr. Salvador Oria, late Secretary of State in the Ministry of Finance, member of the Board of the National Mortgage Bank.

Replaced at the third Session by

M. Julian Enciso, Councillor of Legation, Geneva.

Belgium. — M. Ch. Clavier, Director-General of Direct Taxation and Land Survey in the Ministry of Finance.

Czechoslovakia. — Dr. Vladimir Valnicek, Chief of Section in the Ministry of Finance.

Replaced at the third Session by

H. E. Dr. Bohumil Vlasak, Minister Plenipotentiary, Head of Department in the Ministry of Finance.

France. — M. Borduge, Councillor of State, Director-General of Taxation and Registration, Ministry of Finance.

Germany. — Dr. Herbert Dorn, Director in the Ministry of Finance.

Great Britain. — Sir Percy Thompson, Vice-President, Board of Inland Revenue.

Italy. — Professor Pasquale d'Aroma, Vice-General Manager of the Bank of Italy.

Replaced by

Dr. Gino Bolaffi, Head of Section in the Ministry of Finance, Department of Taxation.

Japan. — Mr. Kengo Mori, Financial Commissioner of Japan.

Replaced by

Mr. Takashi Aoki, Financial Representative of the Bank of Japan.

Substitute

M. Yamaji, Japanese delegation to the Reparation Commission.

Netherlands. — Dr. J. H. R. Sinninghe Damste, Director-General of Taxation

For colonial questions :

Dr. I. J. van der Waals, Director in the Colonial Department.

Poland. — Professor Stefan Zaleski, professor of Political Economy in the Faculty of Law and Economics and Political Science at the University at Posen.

Assistant (for questions of succession duty) :

M. Edward Werner, Head of Department, Ministry of Finance.

Switzerland. — Dr. Hans Blau, Director of the Federal Taxation Department.

United States of America. — Professor Thomas S. Adams, President of the American Economic Association, former Economic Adviser to the U.S.A. Treasury Department, Professor at Yale University.

Assistants :

Mr. Mitchell B. Carroll, Chief, Tax Section, Department of Commerce.

The Committee held three sessions, at which a delegation from the International Chamber of Commerce was present in an advisory capacity.

It endeavoured to prepare draft conventions on the basis of the resolutions adopted in 1925. It was considered expedient to divide the subject-matter into four separate conventions. The question of double taxation was treated in two separate conventions :

(*a*) Draft Convention for the prevention of double taxation in the matter of direct taxation;

(*b*) Draft Convention for the prevention of double taxation in the matter of succession duties.

The question of tax evasion was also dealt with in two conventions :

(*c*) Draft Convention on administrative assistance in matters of taxation;

(*d*) Draft Convention on judicial assistance in the collection of taxes.

The following passages adopted from the Committee's report give a succinct account of its work :

A question discussed at great length by the Committee was, whether the Conventions should be *collective*, that is, signed by as many States as possible, or whether they should be merely *bilateral*.

It would certainly be desirable that the States should conclude collective conventions, or even a single convention

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Miss Annabel Matthews, Attorney, attached to the Board of Inland Revenue, Treasury Department.

Venezuela. — Dr. Federico Alverez Foo, Professor of Finance in the University of Caracas.

It should ne mentioned that, although the members of the Committee were nominated by their respective Governments, they only spoke in their capacity as experts, *i.e.*, in their own name.

embodying all the others. Nevertheless, the Committee did not feel justified in recommending the adoption of this course. In the matter of double taxation in particular, the fiscal systems of the various countries are so fundamentally different that it seems at present practically impossible to draft a collective convention, unless it were worded in such general terms as to be of no practical value. In the matter of tax evasion also, although unanimity would not seem to be unattainable, there is no doubt that the accession of all countries to a single Convention could only be obtained as the result of prolonged and delicate negotiations, while there is no reason to delay the putting into force of bilateral conventions which would immediately satisfy the legitimate interests of the tax-payers as well as those of the Contracting States.

For this reason, the Committee preferred to draw up standard bilateral conventions. If these texts are used by Governments in concluding such conventions, a certain measure of uniformity will be introduced in international fiscal law and, at a later stage of the evolution of that law, a system of general conventions may be established which will make possible the unification and codification of the rules previously laid down.

Double taxation, which affects mainly undertakings and persons who exercise their trade or profession in several countries, or derive their income from countries other than the one in which they reside, imposes on such taxpayers burdens which, in many cases, seem truly excessive, if not intolerable. It tends to paralyse their activity and to discourage initiative and thus constitutes a serious obstacle to the development of international relations and world production.

At the same time, any excessive taxation, by its very burden, brings in its train tax evasion, the nature and grave consequences of which have been emphasised on earlier

occasions; the suppression of double taxation is therefore closely connected with the measures for the systematic prevention or checking of such evasion.

It is for this twofold purpose that efforts will have to be made to secure international co-operation, with a view to making it possible to put a stop to an evil which has become especially acute owing to the increase in the fiscal burdens consequent upon the war; the measures advocated by the experts could not fail to bring about a reduction in, and a better distribution of, such burdens.

A word of explanation should be added in regard to the methods used. The Committee endeavoured to reach complete agreement on all essential points. In view of the diversity of fiscal systems, of the different economic interests and the divergent conceptions, both in regard to theory and to practice, obtaining in the various countries, unanimous agreement could not be reached in regard to all the questions which had to be dealt with. Points on which complete understanding could not be arrived at have been left for negotiation and decision to any States when, in the future, they seek to conclude bilateral treaties. The Committee has striven earnestly to restrict to the utmost possible extent the number of questions thus left open.

In order to arrive at practical results with the least possible delay and at the same time not to exceed its instructions, the Committee refrained from examining in detail several co-related questions of international law, such as the doctrine of reciprocity, the treatment of foreign nationals, and the principle of the most-favoured nation, in their relation to the problem of double taxation.

The Committee is of opinion, however, that these problems should be submitted to a detailed examination from the financial, economic and legal points of view. It considers, moreover, that the fiscal laws throughout the world will

undergo a gradual evolution and that this will, in the future, make it possible to simplify the measures it has recommended and possibly even to unify fiscal legislation.

In order to make *systematic and continuous* international co-operation possible in this field, the Committee suggests that a body should be set up under the auspices of the League of Nations; the powers and duties of this body are explained in detail in the final part of its Report.

8. Counterfeiting Currency

On June 5th, 1926, the French Government proposed that the League should undertake the framing of a draft convention for suppressing the crime of counterfeiting currency. This suggestion was approved by the Council on June 10th, 1926, and referred in the first place to the Financial Committee.

The Financial Committee desired to obtain the views of the various banks of issue and send to them a questionnaire. On the basis of the answers received, the Financial Committee, in December 1926, addressed certain provisional recommendations to the Council and suggested that the question should be referred to a special Mixed Committee (1) which

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(1) The Committee is composed as follows :

Financial Committee. — Dr. Pospisil, Chairman of the Financial Committee.

Delegates from Banks of Issue :

Banque de France. — M. Collard-Hostingue, Inspector-General of the Banque de France.

Reichsbank. — Dr. Wilhelm Vocke, Financial Councillor, Reichsbank.

Swiss National Bank. — M. Chs. Schnyder de Wartensee, Vice-President of the Board of Management of the Swiss National Bank.

Deputy : M. Schwab, Secretary-General to the Board of Management of the Swiss National Bank.

Argentine National Bank. — M. Juan Carlos Cruz, Chief Advocate of the Argentine National Bank, member of the Directing Board of the University of Buenos Aires, Professor of Commercial Law in the Faculty of Law.

was immediately appointed and prepared a draft convention. This document, together with the commentary of the Committee, was published and submitted to the Governments for their observations with a view to summoning a Conference at which the Convention may be adopted.

The draft Convention consists of 11 Articles. The first article, which is subdivided into 16 paragraphs and, in fact, forms a special part of the Convention, embodies the rules which are recognised and adopted as efficient means to suppress the counterfeiting of money, meaning thereby current paper money, including bank notes, and specie. Paragraphs 1-11 of the Article contain what may be called the provisions of material penal law which the Contracting Parties are prepared to adopt, whilst paragraphs 12-16 contain rules of prosecution and of procedure. The rules of material law are governed by the principle that all actions aiming at the forbidden purpose shall be punished, irrespective of the country in which they are committed, and that no difference shall be made between national and foreign currencies. The rules of prosecution and of procedure provide for the creation of a Central Office in each country, for close collaboration between the various Central Offices and for a simplified transmission of rogatory Commissions.

Experts in Penal Law :

Belgium. — M. Servais, Minister of State, Attorney-General, Court of Appeal, Brussels.

Deputy : M. Cornil, King's Proctor, Professor of Penal Law at the University of Brussels.

Great Britain. — Sir John Fisher Williams, K.C., C.B.E.

Italy. — Commendatore Ugo Aloisi, Councillor to the Court of Appeal of Italy.

Roumania. — M. Vespasian Pella, University Professor.

Authorities responsible for Prosecutions :

Austria. — M. John Schober, Chief of Police, Vienna, former Federal Councillor.

Netherlands. — Baron A. A. van der Feltz, Doctor of Law, Attorney-General, Court of Appeal of Amsterdam, Head of the Netherlands Central Organisation for the Suppression of Counterfeiting.

Deputy : M. K. H. Broekhoff, Inspector-General of Police. Chief Commissioner of Police of the State.

Following the general principle established by the first part of Article 1, all infractions contemplated by the Convention are recognised as cases for extradition (Article 2).

The whole of the Convention is subject to the restriction that it cannot be interpreted as affecting the attitude of any Contracting Party to the general question of penal jurisdiction according to international law (Article 3).

PART II

ECONOMIC WORK

The principles of prudence and the endeavour to give practical value to its work which have guided the Financial Committee in everything it has undertaken have also governed the work of another advisory and technical organ of the Council, *i.e.*, the Economic Committee.

During the past five years this Committee has attempted in various ways to bring about a more equitable treatment of commerce, but before describing this part of the work it will be convenient to deal with the Economic Conference, held in 1927, which is far more important than any other piece of work done under the auspices of the League in the Economic field, and which is likely to give an entirely new direction to its activities.

International Economic Conference

The Conference met from May 4th to 23rd, 1927.

There can be no more adequate account of the Conference than this survey by the President, which is quoted in full.

General Survey and Summary

by M. THEUNIS, President of the Conference

[*Speech made at the closing meeting on May 23rd, 1927.*]

The deliberations of this Conference have now come to an end, and it remains for me, in this concluding speech, to review the achievement of the last three weeks and attempt to indicate the stage we have reached in dealing with the vast and complex problems which we were asked to discuss. I say "the stage we have reached", for at the outset I think it well to recall, as the Preparatory Committee did in its report, that the "Economic Conference must be regarded not as an isolated event but as a stage in the continuous work of international collaboration in the economic sphere which had begun before the project of a general conference was launched and will continue when the Conference itself is over".

The Conference has met after a long and elaborate preparation extending over a year. It has had at its disposal a documentation which derives its value from the collaboration of distinguished experts and of both official and private organisations throughout the world, and is remarkable alike for its range, its fulness and its authority. I would mention for example the International Chamber of Commerce, whose written and personal contributions—based on previous consultations of national committees in many countries—have throughout been of the greatest assistance. We have also been fortunate in obtaining the help, in every stage of our work, of the International Labour Office, the International Institute of Agriculture and other bodies.

The Conference has been no less notable in its composition : 194 members, attended by 157 experts, drawn from

50 countries in all quarters of the globe, including not only countries which are Members of the League but non-Members, have agreed upon a body of far-reaching recommendations and resolutions.

You have been chosen, with few exceptions, by Governments, though you are not spokesmen of official policy, and your qualifications cover almost every sphere of human activity. The distinctive character of the Conference is thus that it is responsible though not official—expert but not academic. I cannot but believe that resolutions unanimously voted by a membership so widely representative both in qualifications and in nationality must profoundly influence the future economic policy of the world.

Our three weeks of assiduous study and full discussion are now over. We are answerable to our own conscience and to public opinion for the results. Have we accomplished the task assigned to us? I think, ladies and gentlemen, that I am entitled to say that you have achieved a real and a permanent result, and that it goes far beyond the hopes which were cherished when you began your labours.

All who have followed your work with interest throughout the world—and they are many—all those who have realised even imperfectly the serious difficulties and complications with which you were faced, will welcome the achievement and will congratulate you on the combined zeal and common sense to which it is due.

There was indeed a danger—and we can admit it now that we have reached the close of the first stage of our work—that the bold initiative of the League of Nations and the conception on which it was based might involve great difficulties.

It was necessary to clear a way through the thicket and chaos of the problems which hindered the nations of the world in their progress. It was necessary to bring into har-

mony the conflicting policies and desires of many interests and many great movements.

In spite of the efforts to be impartial and to be conciliatory which we are accustomed to expect from representatives meeting at Geneva, there was reason to fear that the diversity of origin and of qualifications might cause friction and opposition—possibly of a violent and unpleasant character.

The danger of confusion and of controversies, which many pessimists considered practically certain, has, thanks to the generous effort at *rapprochement*, not only been avoided but actually eliminated. And after the appeal for solidarity which I ventured to make to you a few weeks ago, I desire to thank you and congratulate you from the bottom of my heart.

Producers, employers and workers, farmers, traders, financiers, economists and consumers, you have, without neglecting the interests which you represent and which you have to defend, constantly borne in mind that we are all members of the same community, working, toiling, suffering together and directing our efforts to a common end.

Each of the three great Commissions—on Commerce, on Industry and on Agriculture—through which the Conference has worked has itself been a real international conference. All of them carried out a thorough examination of their various problems, and their conclusions, even taken separately, are of high value, determining, as they do, first the main causes of the evils from which the world is suffering and, secondly, indicating remedies which can be applied in practice.

By means of their public discussions, the reports submitted to them and the committees which they set up for special problems, the three main Commissions of the Conference have performed work of the highest importance, each part

of which will serve to throw light on the rest and facilitate its comprehension.

If I had to sum up in a few words the most striking feature of the Conference I could not do better than quote a sentence from the Report of the Commerce Commission : "In spite of the variety of the questions raised, the diversity of theories, and the legitimate national sentiments of all those who took part in the discussions, one important ad- extremely encouraging fact has emerged; and, having emerged, has become increasingly manifest as the work advanced. This fact is the unanimous desire of the members of the Conference to make sure that this Conference shall, in some way, mark the beginning of a new era,, during which international commerce will successively overcome all obstacles in its path that unduly hamper it and resume that general upward movement which is at once a sign of the world's economic health and the necessary condition for the development of civilisation."

I would make one other prefatory remark before I turn to the resolutions.

The Conference, as a world conference composed of those who represent different interests and policies in every quarter of the globe, has considered economic problems in their international aspects and adopted an international point of view. It has recognised the importance, and in certain cases the decisive importance, of national considerations, some of which are political and social rather than economic in character; and it has recognised that it is not possible to secure the adoption of policies and systems determined in every feature by the sole criterion of what would give the maximum prosperity to the world as a whole. Some countries will decide to assure the manufacture in their own territory of certain articles whether or not the purely economic result, for the world as a whole or for the country in question, of

importation from abroad would have been preferable. But, as the starting point and angle of approach to the different problems, the Conference, as an international conference, has felt bound to assume that international trade is itself to be desired; that the exchange of products and services between persons either of the same country or of different countries is normally to the advantage of both parties; that the greater the range of exchange of different products between those who by their resources and capacities are best fitted to produce them, the greater is the general economic advantage; and that international exchange of products best and most economically produced in different countries should therefore be regarded as the normal rule.

There are practical limitations to the application of this principle in policy. But that international trade is normally and properly not a matter of victory and defeat, or profit of one at the expense of the other but of mutual benefit, has necessarily been the basis of this International Conference.

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With this preface let me review our resolutions, following the order of the Agenda.

The first part covers a general review of the world economic position. We have first had written reports from twenty-four nations describing the principal features and problems as seen from the point of view of the respective countries; and these have been supplemented by further similar accounts in the speeches of the Conference. We have next, in the first chapter of our report, given a general picture of the present economic situation as it emerges from the documentation.

Lastly, on this part of the Agenda, we have passed an important resolution stating our unanimous conviction that the maintenance of world peace depends largely upon the

principles on which the economic policies of nations are formed and executed; that the Governments and peoples of all countries should constantly take counsel together as to this aspect of the economic problem; and that we should look forward to the establishment of a recognised body of principles designed to eliminate the economic difficulties which cause friction and misunderstanding. The object of the Conference, as the original Assembly resolution made clear, was a twofold one. It has been concerned not only with the prosperity but with the peace of the world. This has been not only a special item on the Agenda but a point of view which the Assembly wished should be borne in mind throughout the discussion of particular problems. Economic conflicts and divergence of economic interest are perhaps the most serious and the most permanent of all the dangers which are likely to threaten the peace of the world. No machinery for the settlement of international disputes can be relied upon to maintain peace if the economic policies of the world so develop as to create not only deep divergencies of economic interest between different masses of the worlds population, but a sense of intolerable injury and injustice. No task is more urgent or more vital than that of securing agreement on certain principles of policy which are necessary in the interests of future peace. And there is perhaps no question which, in comparison with its intrinsic importance, has had so little careful and collective deliberation. No single conference can do more than make a first beginning in such a task, but the ultimate results are incalculable.

There follow several resolutions on subjects not falling under special chapters on the Agenda or dealt with by the three Commissions.

This Conference has again, as the Brussels Conference did in 1920, called attention to the heavy burden of armaments expenditure entailing heavy taxation which reacts upon the whole economic life of the different States and lowers

their standard of living; and expresses the earnest hope that the efforts, by agreements between States, to secure limitation and reduction of armaments will have successful results.

Next comes a resolution in which the Conference states that, while it refrains absolutely from infringing upon political questions, it regards "the participation of members of all the countries present, irrespective of differences in their economic systems, as a happy augury for a pacific commercial co-operation of all nations".

Lastly the Conference recognises that the successful application of the principles on which it has agreed depends "not only upon the good will of Governments and administrations but upon an informed and supporting public opinion throughout the world".

* * *

Let us come now to the second part of the Agenda, which was divided into three main chapters : "Commerce", "Industry", and "Agriculture", each of which has been dealt with by a special commission, whose reports and resolutions have been approved by the whole Conference.

Commerce

The fundamental idea on which the work of the Committee on Commerce was based, and which has appeared with increasing force in the course of the discussions, is the necessity of restoring greater freedom to a world hitherto hampered by many obstacles due to the war and its consequences and to erroneous economic ideas. At the same time there has been a recognition of the close interdependence of nations in this sphere and the importance of the reactions which

measures taken by the various countries exert on the policy of the other countries.

In the first chapter of "Commerce", the Conference first makes a number of recommendations, under the general heading "Liberty of Trading"—an expression not to be confounded with "Free Trade" but embracing all measures calculated to liberate international commerce from artificial restrictions and obstructions. The Conference expresses the hope that the diplomatic conference convened at Geneva for November next by the League of Nations will result in the real removal of import and export prohibitions and restrictions. It condemns the granting of special immunities and privileges to State-controlled undertakings which enable them to compete unfairly with private enterprises and, commends and encourages the action now being taken by the Economic Committee for the removal of many impediments to international trade. Lastly, the Conference recommends the preparation of a convention on economic and fiscal treatment of foreigners and foreign enterprises for which valuable information has been furnished by the report of the International Chamber of Commerce.

Customs : Simplification — Stability — Reduction.

The Committee then took up the question of Customs tariffs, distinguishing between their form and their substance, *i. e.*, the actual amount of the import duties. As regards the question of form, the Conference unanimously recognises the desirability of simplifying Customs tariffs as far as possible, creating a systematic Customs nomenclature the use of which would in due course be regularised by international conventions, stabilising Customs tariffs, thereby eliminating a disturbing factor especially harmful to industry and commerce, and finally ensuring the utmost fairness in the application of the duties.

The main object of the work of the Committee has naturally been the questions of Customs tariff levels, which is closely bound up with that of commercial treaties.

The essential conclusion which emerges from the discussion in this field is that the Conference declares that "*the time has come to put an end to the increase in tariffs and to move in the opposite direction*". To achieve this result it is recommended that action should be pursued along the three following lines : firstly, *individual* action by the various States with regard to their own tariffs; secondly, *bilateral* action through the conclusion of suitable commercial treaties; thirdly, *collective* action, by means of an enquiry undertaken by the Economic Organisation of the League of Nations, with a view to encouraging the extension of international trade on an equitable basis by removing or lowering the barriers to international exchange set up by excessive Customs tariffs.

A fact that may be taken as marking a considerable step in the evolution of ideas in Customs tariffs is that this question, notwithstanding its fundamental importance in the economy of each State, has now come to be considered as no longer being exclusively within the domain of national sovereignty but as falling within the scope of problems for which parallel or concerted action among the different nations is possible and desirable. Each nation will then know that the concession it is asked to make will be balanced by corresponding sacrifices on the part of the other nations. As the report of the Committee states, each country will then be able to give its attention to the proposed measures, not merely in view of its own individual position but also because it is interested in the success of the general plan laid down by the Conference.

Round the central idea of the diminution of Customs charges are grouped other questions which support it and tend to hasten its realisation and render it more complete.

Thus the Conference next condemns the practice of penalising imported goods by means of differential internal taxes, and declares that as the free movement of raw materials is essential for a healthy development of world trade, export taxes should be as low as fiscal requirements and exceptional and compelling circumstances permit, and should in any case not be discriminatory.

Finally, the Conference, having in mind the need of restoring the system of long-term commercial treaties, and recognising that any such system must be built up on the mutual grant of unconditional most-favoured-nation treatment, recommends that this important conception should be given the widest and most liberal interpretation.

The Economic Organisation of the League should examine the possibility of securing a standard form of commercial treaty and uniform principles as to the interpretation and scope of the most-favoured-nation clause.

Lastly, the Conference recommends States to consider the desirability of providing in their commercial treaties for the decision of disputed questions of interpretation or application by arbitration or by a reference to the Permanent Court of International Justice.

There are certain indirect means of protecting national trade and national navigation. Although they exercise a less immediate influence on the development of trade than the fundamental problems just described, questions such as the granting of subsidies, dumping and discrimination imposed under the transport regime merited the attention of the Conference. Certain principles were laid down which, without always indicating definite solutions—a very difficult matter owing to the wide variety of opinions held—should help to enlighten public opinion as to the true nature and inevitable consequences of the practices in question.

Industry

In the report dealing with "Industry" the Conference begins by a brief analysis of the causes of the difficulties with which the industries of principal international importance are at present faced in certain parts of the world.

The Conference took as its central problem the question of how costs could be reduced without injury to the consumer or the worker. With this object it considered : (1) "rationalisation" in its various aspects, and, in this connection, (2) international industrial agreements, and (3) the collection and exchange of information.

The report enumerates in detail the aims of rationalisation, and declares that it must be applied with care so as not to injure the legitimate interests of the workers. It therefore recommends that Governments, public institutions, trade organisations and public opinion, as the case may be, should encourage producers to promote the investigation of the best methods and results of rationalisation and scientific management, and standardisation, not neglecting the smaller undertakings and giving special attention to measures calculated to promote social welfare.

International Industrial Agreements. — The report then turns to the question of industrial agreements, which has recently attracted close attention and on which the discussions at the Conference revealed a certain conflict of views. The Conference has laid down no conclusion of principle on the subject, but recognises the growth of agreements as a development which may be either good or bad according to the spirit in which they are constituted and operated and the measure in which their directors are actuated by a sense of the general interest. Agreements cannot by themselves be regarded as the only remedy for the present causes of economic trouble; but, within limits, they may serve to improve the organisation and reduce the cost of produc-

tion. By checking uneconomic competition and diminishing industrial fluctuations they may make employment more stable while benefiting the consumer. Nevertheless, agreements may involve danger if they encourage monopolistic tendencies and unsound business methods.

The Conference therefore lays it down that agreements ought not to lead to an artificial rise of prices and that they should not restrict the supply to any particular country of raw materials or basic products or, without just cause, create unequal conditions between the finishing industries of consuming and producing countries or other countries similarly placed. Nor should they stereotype the present position of production or the distribution of industries.

No special system of supervision over agreements is recommended, and Governments which adopt measures regulating agreements within their country are advised not to place obstacles in the way of the benefits which such agreements might secure. While the divergencies between the national measures of supervision offer an obstacle to the establishment of an international system, the Conference considers that publicity is one of the most effective means of preventing the growth of abuses and recommends that the League of Nations should follow closely the operations and effects of international agreements and should collect and publish such relevant data as are of general interest.

Lastly the Conference lays special enphasis on the importance of the systematic collection of accurate information both from the point of view of the leaders of industry and of the public. Accurate statistics should be obtained both for the basic world industries and also for the chief industries of each country, so as to render possible the compilation of quantitative indices of industrial production.

The Economic Organisation of the League of Nations should endeavour to promote international agreements with

regard to the terms, methods and scope of industrial statistics employed, and should collate the information provided as to raw materials, production, etc., the International Labour Office dealing with wages, hours, employment, etc.

In addition, the Economic Organisation should arrange for the compilation of general reports, special studies and reviews bearing on industrial development, raw materials and changes in production and trade.

Agriculture.

For the first time, at this Conference, agriculture has been represented side by side with commerce and industry in such a way that it can take its place in a general review of the economic situation of the world. From the documents available at the Conference, it is evident that the dislocation of the prices of agricultural in relation to those of manufactured products is causing a widespread depression in agriculture, which, if some improvement is not achieved, may result in a diminution in agricultural production.

Perhaps the most important outcome of the agricultural discussions is the realisation of the essential interdependence of agriculture, industry and commerce; that, in the words of the report, "it would be vain to hope that one could enjoy lasting prosperity independently of the others".

The Conference considers that the first measures for the improvement of agriculture must be taken by agriculturists themselves—by the general adoption of better technical methods, more scientific organisation, an extension of the international campaign against diseases of plants and animals, and by co-operation and the organisation of credit institutions. With regard to the co-operative movement, the Conference desires to emphasise the importance of direct relations between producer's and consumers' associations.

The credit difficulties in the way of agriculture, still so acutely felt in many countries, can only be surmounted by organising national credit institutions where they do not yet exist or developing already existing institutions, with or without the assistance of the public authorities. The study of the question whether an international organisation capable of increasing the resources available for agricultural credits is or is not a practical proposition is recommended.

In some of the measures mentioned above, private endeavour must be supplemented by Government action. With regard to legislative measures, the Conference recommends the extension of social legislation to the agricultural population, it being understood that special adaptation to the requirements of rural conditions would be necessary.

In agreement with the principles stated in the review of commercial conditions, the Conference lays stress on the desirability of removing hindrances to the free flow of agricultural products in so far as their removal does not endanger the vital interests of the various countries or their workers. Where a minimum of protection is maintained, care should be taken to maintain an equitable balance between industry and agriculture and not to stifle the one to the advantage of the other.

The Conference further recommends the development of agricultural statistics, particularly on the basis of an exact system of farm accounting and with regard to live-stock and animal products; also, that a general enquiry be made into the present situation and the possibilities of developing agriculture, particular attention being given to the development of agriculture among the indigenous populations in colonies.

A special study should be made of the resources and the exploitation of forests in relation to the need for obtaining the regular supplies essential to industry.

In view of the interdependence of agriculture on the one hand and industry and commerce on the other, the Conference requests the League of Nations to ensure that, in the organisations already existing or to be formed for the study of economic questions, agricultural interests shall be represented in proportion to their economic and social importance.

The Conference concluded with a resolution expressing its high appreciation of the work of the Economic Committee and the Secretariat of the League. With regard to the action to be taken on its recommendations, the Conference, while offering no suggestion as to a permanent organisation, thought that it could not do better then draw the Council's attention to the well-balanced composition of the Preparatory Committee, which has yielded excellent results in the preparatory work for the Conference.

Conclusions.

The eight years of post-war experience have demonstrated the outstanding fact that, except in the actual fields of conflict, the *dislocation* caused by the war was immensely more serious than the actual *destruction*. The main trouble now is neither any material shortage in the resources of nature nor any inadequacy in man's power to exploit them. It is all in one form or another a maladjustment—not an insufficient productive capacity but a series of impediments to the full utilisation of that capacity. The main obstacles to economic revival have been the hindrances opposed to the free flow of labour, capital and goods.

The removal of these obstacles with the twofold object of stimulating production and restoring free channels for trade requires concerted international action. The attainment of the former object lies largely in the hands of producers in promoting by co-operation more scientific methods, such as simplification and standardisation, which eliminate waste.

A necessary preliminary to this process is the collection and periodical publication of information bearing on production and its factors which shall be fuller, more regular, more uniform and better co-ordinated. The second object lies rather within the scope of governmental efforts, inspired and permitted by an enlightened opinion among employers, workers and consumers. This is especially true of Europe. It is essential, as the resolution states, "that nations should take steps forthwith to reverse or diminish those tariff barriers that gravely hamper trade, starting with those which have been imposed to counteract the disturbances arising out of the war". It is essential that a renewed sense of security should mitigate a burden of armaments which is profoundly uneconomic. We have here, and in the erection of tariff walls in order to obtain "self-sufficiency", two of many illustrations of the relation between the problem of economic recovery and of security. It is perhaps particularly true of Europe, but also true of the world in general, that without confidence in the continued peace of the world a prosperity corresponding to the real recovery of productive capacity which has taken place since the war cannot possibly be attained.

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Such, in bare summary, are the results and resolutions of the Conference. They must be studied in the complete text, which alone remains authoritative, to be fully appreciated; and, in particular, the more important recommendations, which can be distinguished by the Table of Contents and the headings, do not admit of adequate summary and need to be read in their complete form.

Now that we have laid down in your resolutions the principles upon which economic policy should be based, we must ask ourselves if our work is finished. Most certainly it is not; I might even say that our work is only begun.

You have completed the first stage of laying down the principles; and in doing so you have been inspired by the great and fruitful idea of the interdependence of nations, and of the interdependence of the groups of which nations are composed. At every stage in your discussions and on every page of your reports, the solidarity of mankind has appeared more obvious and more significant. You have striven to make it easier for the masses to improve the material, and therefore the moral, conditions of their life. But your work cannot prove effective unless the peoples of the world themselves give to your recommendations the support of their interest and of their power. If we are not supported by all those for whom we have been working, our endeavours will be unavailing. Public opinion as a whole must understand not only the intrinsic importance of your work, but also, and above all, it must realise its strength, its utility and the vital importance which it must have for its well-being.

We have worked loyally together to secure economic peace, on which, indeed, political peace depends. This Conference is an assembly of persons who have been brought into touch with realities—always harsh and often disappointing—but with realities in which truth, sooner or later, always prevails. Our advice and recommendations will in all probability not be followed immediately on the scale we would desire. Great movements frequently experience many difficulties at the outset. But we are convinced that our work is based on true principles and on the determination to ensure to the best of our power both the peace and the prosperity of the world. In coming here to Geneva in response to the appeal of the League of Nations, which truly interpreted the ardent desire for peace and reform cherished by all nations, we desired to undertake a beneficent task. To-day we have completed the first stage, and we may well be proud of what we have done. But we must not forget that our success will depend on the measure of our perseverance.

And I venture here to make an urgent and solemn appeal to all those—members and experts—who have co-operated in our work and taken part in the Conference. By contributing to the framing and adoption of our recommendations, we have assumed a real moral obligation to disseminate, to defend and to secure the triumph of the truths which we have formally proclaimed. They will win their way gradually, no doubt, and partially, but they will ultimately prevail. When we resume our everyday duties, we must endeavour constantly to devote to these truths a part of our thoughts and efforts.

After the terrible calamity experienced by Europe, the results of which have been felt throughout the whole world, we cannot expect that order will be restored as if by enchantment. But whether the fruits of our labours are gathered by ourselves or by those who succeed us, we are animated by the firm determination to unite our efforts to those of friends who share our hopes, our enthusiasm and our ideals. We know that the time will come when mankind will be the happier for our work. And that alone, ladies and gentlemen, will enable us to be proud of what we have done.

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For the execution of the work (studies and enquiries, preparation of conferences and conventions) which it entrusted to the League, the Economic Conference recommended that a special organisation should be constituted.

In September, 1927, the Assembly invited the Council to constitute an Economic Organisation on which would be represented the various interests and organisations which had collaborated in the preparation of the Conference. The Council decided to re-organise the Economic Committee and to constitute a Consultative Economic Committee.

The work of the Economic Committee will lie within the sphere of the economic relations between States and their economic policies so far as they have international aspects. It will comprise fifteen members of different nationalities, appointed by the Council in their personal capacity and on the grounds of their economic qualifications for a period of three years. They do not represent their Governments. At the end of their term of office, retiring members, unless succeeded by members of the same nationality, become corresponding members of the Committee.

The composition of the Consultative Committee is modelled on that of the Preparatory Committee for the Economic Conference as regards the balance of the various interests represented. It includes qualified experts on industry, commerce, agriculture, finance, labour and questions affecting consumers.

It was first of all decided to appoint thirty-five members, but in order to secure well-balanced representation for all elements in proportion to their importance in economic life, and likewise for the various countries, the Council raised this figure to fifty-two, including three members nominated by the International Labour Office, five members representing the Economic Committee, two members representing the International Chamber of Commerce, one member representing the Financial Committee and one member representing the International Institute of Agriculture.

The Consultative Committee includes nationals of Australia, Austria, Belgium, Great Britain, Canada, Chile, China, Colombia, Czechoslovakia, Denmark, Finland, France, Germany, Greece, Hungary, India, Italy, Japan, Luxemburg, the Netherlands, Poland, Portugal, Roumania, the Serb-Croat-Slovene Kingdom, Spain, Sweden, Switzerland, and the United States of America. It numbers among its members the Presidents of the International Institute of

Agriculture and the International Chamber of Commerce.

The Council further set up a preparatory committee composed of the Chairman of the Consultative Committee, M. Theunis, and the Vice-Chairman, M. Loucheur, M. Colijn and Sir Atul Chatterjee.

Work of the Economic Committee

The Members of the League undertake, in virtue of Article 23 (*e*) of the Covenant, to establish and maintain equitable treatment of commerce among themselves.

The Council therefore in the first instance directed the Economic Committee, in September 1921, to "consider and report upon the meaning and scope of the provision relating to the equitable treatment of commerce contained in Article 23 (*e*) of the Covenant".

This involved a twofold task, viz. :

(*a*) To study the scope, *i.e.*, the various forms of commercial activity in respect of which the League is empowered to take action under Article 23 (*e*) of the Covenant; and

(*b*) To define the meaning of the general term "equitable treatment".

The Committee, after having investigated how far there was reasonable prospect of obtaining a general agreement among the Members of the League on these two points, came to the conclusion that there was no possibility of obtaining an international convention which would cover the whole problem.

It considered, therefore, that its work should be essentially practical.

It decided that the best method of achieving satisfactory results was to examine various kinds of practices which clearly violate the broad principle of equitable treatment.

It grouped them under the following headings :

1. Encouragement or toleration of unfair competition by means of fraudulent trade practices (such as false trade-marks and descriptions) to the detriment of legitimate trade.

2. Unjust or oppressive treatment by any State Member of the League, in fiscal or other matters, of foreign nationals, firms and companies duly admitted to exercise their commerce, industry or trade in the territory of another State.

3. Excessive, unnecessary, arbitrary or unjust Customs formalities and similar practices which are prejudicial to the commerce of other Members of the League.

4. Unjust discrimination against the commerce of any Member of the League in such matters as the treatment accorded to goods and vessels.

I. Unfair Competition.

Under the term "Unfair Competition" may be included practices whereby trade-marks or indications of geographical or commercial origin are improperly used, or whereby goods are falsely described. Hitherto such practices have been regulated by the International Convention of Paris, 1883, for the Protection of Industrial Property, which was amended at Brussels in 1901 and at Washington in 1911. Under the amended Convention, the contracting States undertake to ensure protection against unfair competition to members of the union. This undertaking, as embodied in the convention, is vague and general and contains no provision for international jurisdiction to enforce it and no detailed particulars of the precise character of the practices at which it is aimed.

Another Convention, known as the Madrid Arrangement, for the Prevention of False Indications of Origin on Goods,

also amended at Washington in 1911, only embraces ten States, excluding some of the most important.

The Economic Committee took the view that the protection against unfair competition given by the Paris Convention was inadequate for two reasons :

(*a*) That not all States are parties;

(*b*) That the provisions of Article 10 *bis* relating to unfair competition are defective in not clearly defining the kinds of unfair competition against which they are aimed and the procedure for obtaining redress.

In order to ensure better protection against unfair competition, the Economic Committee considered it desirable :

(*a*) That the membership of the Industrial Property Union should be extended to all States of any importance;

(*b*) That the provisions of the Convention, as far as they relate to unfair competition, should be amended and supplemented.

At the Committee's suggestion, the Council sent a strong recommendation to all States Members, urging them to adhere to the Industrial Property Convention.

The Economic Committee also prepared a draft of certain provisions regarding unfair competition to serve as a basis and destined for the amendment of the Industrial Property Convention and to form part of the programme for a conference.

This Conference was held in October 1925 at The Hague, under the auspices of the Industrial Property Union; it was with a view to this conference that the Economic Committee sought to draw up proposals for the amendment of the text of the Industrial Property Convention.

The proposals were submitted to all States Members of the League for their consideration. The proposals aimed at : (*a*) affording really effective remedies to persons aggrieved by unfair competition; (*b*) defining the classes of unfair practices including, amongst other things, the improper use of trade-marks and names and false indications of origin, written misdescriptions, etc.; (*c*) dealing with the abuses caused by improper registration of foreign-owned trade-marks, etc., and enabling such marks if already improperly registered to be removed from the register.

Twenty-five States sent their observations and suggestions. The Japanese Government then asked that an international meeting of Government experts should be called by the League for the consideration of the draft articles. This meeting took place in May 1924. Twenty-two experts from as many different countries attended the meeting in a personal capacity. They adopted in their broad outlines the Economic Committee's proposals, consisting in amendments to several articles of the Convention and some additional articles to be inserted therein. At the request of the Council, the Committee's proposals were communicated to all the Members of the League and to the Members of the Union.

Two members of the Committee, invited by the Netherlands Government, which had convened the conference, took part in it an advisory capacity.

A comparative study of the proposals put forward by the Economic Committee and of the amendments and additions to the text of the Convention adopted by the Conference at The Hague would go beyond the scope of the present pamphlet. A comparison between the original text and that subsequently adopted clearly shows the importance of the results obtained and the very large extent to which the Committee's proposals were embodied in the texts adopted at The Hague.

2. Treatment of Foreign Nationals and Enterprises.

The unjust or oppressive treatment by any Member of the League of persons, firms and companies of any Member carrying on business, whether commercial, industrial, financial or insurance, within its territory, also constitutes a violation of the principle of the equitable treatment of commerce laid down by the Covenant.

The Committee found it impracticable, in the present political and economic condition of the world, to formulate any general rule applicable to the conditions of admission of foreigners which could be recommended for adoption without such important and numerous exceptions as to deprive the rule of all practical value. It has therefore confined its study exclusively to the regime applicable to foreign persons or organisations which have been duly admitted by law to carry on their occupation within the territory of a State.

The Committee endeavoured to formulate principles which should be observed in the treatment of foreign persons and companies with a view to protecting them from arbitrary fiscal treatment and unjust discrimination. It embodied these principles in a series of recommendations which the Council of the League has submitted to all States Members of the League, with a recommendation that the States should be guided by these principles, both in their internal legislation and their international agreements.

These are as follows :

> "The Council of the League of Nations, considering that the grant of the legal, administrative, fiscal and judicial guarantees necessary for nationals, firms or companies of any States Members of the League, who are permitted to carry on their commerce, in-

dustry, or any other occupation within the territory of another State Member of the League, or to establish themselves there, was one of the requirements of economic co-operation between nations,

"Recommended to all the States Members of the League the following principles, which they should seek to put into practice both by the adaptation of their national legislation to this end and by the conclusion of bilateral agreements.

"1. In the case of persons, firms, or commercial, industrial, financial or insurance companies permitted to establish themselves within the territory of another State in conformity with its laws and regulations, the granting of the treatment accorded to nationals in fiscal matters should be maintained as an absolute rule. Such persons, firms, or commercial, industrial, financial or insurance companies should in no case be subjected as regards their goods, industry, commerce or any other form of economic activity, to general or local taxes, or to duties of any kind whatever, different from or higher than those which are imposed on the nationals of the State concerned, subject to special exceptions which could only be justified by requirements of the public interest and which should be applicable to all nationalities without distinction.

"2. If in any case a person, firm or company is admitted to carry on an industry, commerce or any other occupation in a country without being established in that country, the treatment in fiscal matters of such person, firm or company should not be such as to place them in a position of inferiority as compared with nationals subject only to the exception mentioned in the preceding article.

"3. Where a foreign business established in the territory of a State is a branch of, or subsidiary to, a business of which the seat of control is in another State, the principle to be followed as regards the taxation of the business should be that taxes imposed in the country in which the foreign business is so established should be strictly limited, if levied on capital, to the capital really invested in that country, and, if levied on profits or revenues, to those arising from the business activities carried on in that country.

"4. Foreign persons, firms or companies permitted to establish themselves within the territory of any of the States Members of the League should be entirely free to acquire and to possess property of all kinds, whether real or personal, which is necessary for their economic activities and which the laws of the foreign State in question permit or may thereafter permit to the nationals of another State to acquire and to possess.

"5. Such persons, firms or companies should be able to dispose of their real or personal property referred to in the preceding article, especially with regard to cession, exchange, gift, or legacy in accordance with the regime accorded to nationals, applicable without modification or restrictions of any kind.

"6. The fiscal regime applicable to the export of the product of the sale of real and personal property by the said persons, firms or companies, and the regulations with regard to the foreign currency acquired as a result of such exportations, should not differ according to the nationality of the exporter.

"7. Persons, firms or companies permitted to establish themselves within the territory of a State Member of the League should be entitled, in defence of their

rights, to bring an action, either as plaintiff or as defendant, in accordance with the laws of the State in question.

"8. The above provisions shall be applicable subject to just reciprocity and without prejudice to any further facilities which, by virtue of the powers conferred upon them by their systems of law, certain States might grant to each other without thereby injuring the interests of third States or of their nationals.

"9. It is agreed that nothing in the present articles requires a State to grant their benefit to a company of which it can be proved that the financial control is in the hands of the nationals of a State which has not accepted the present recommendations, or of which the seat of control is situated in the territory of such a State.

"10. While the principles of equitable treatment embodied in the present articles should be universally observed throughout the territories placed under the sovereignty or authority of States Members of the League, it is recognised that there may be special cases of overseas colonies, protectorates or territories under mandate in which it is impracticable to apply some of the detailed provisions of these articles or in which they can only be applied subject to modifications necessary to adapt them to special and local circumstances.

"In the cases referred to, the States concerned will apply a regime which will respect the principles of the present articles."

The Economic Committee next considered the conditions on which foreigners legally domiciled in a country are or should be admitted to carry on a profession or occupation.

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In this matter certain conclusions were also reached which are summarised in the following recommendations in a circumstantial report addressed to the Council and adopted by the latter in June 1925 :

"(*a*) The general rule for ordinary open professions, industries and occupations should be mutual national treatment, with or without the condition of reciprocity.

"(*b*) In professions, industries or occupations, the carrying on of which is dependent on compliance with a prescribed standard of qualification or of training, it is desirable that States should, so far as practicable, make arrangements by bilateral agreements or otherwise for the mutual recognition of such standards.

"(*c*) The number of professions, industries and occupations into which the entry of foreigners is restricted on the gound of national interests should be limited to the essential minimum required by these interests.

"(*d*) The restrictions placed on foreigners with regard to carrying on professions, industries and occupations of this class should be similarly limited to those which are *bona fide* necessary for the protection of national interests.

"(*e*) In applying such restrictions, there should be no arbitrary or unjust discriminations between foreigners on the ground of nationality.

"(*f*) If and when a State finds it necessary to restrict the carrying on of an occupation to persons holding a special contract or licence, the right to tender for such contract, or to obtain a licence on fulfilling the prescribed conditions, should only be restricted to nationals of the State where such restriction is

considered necessary to protect essential State interests, and that, where such restriction to its own nationals is not enforced, there should be no arbitrary and unfair discrimination as between the nationals of different foreign States.

"(*g*) Except in so far as the right of foreigners to reside or travel in certain exceptional areas (*e.g.*, in the neighbourhood of forts, etc.) may be restricted in the national interest, the general rule should be that foreigners duly admitted into a country should be accorded the same freedom of travel and residence as is enjoyed by nationals, subject always to compliance with the national laws with regard to the registration of foreigners, notification of change of address, etc.

"(*h*) If as a result of the special conditions obtaining in certain countries, and particularly in overseas territories placed under the sovereignty or authority of other countries, the above rules cannot be applied, such countries should still be governed by these principles in ensuring equitable treatment to foreign nationals in this respect."

This second series of recommendations was communicated to the Members of the League by a decision of the Council. The International Chamber of Commerce also prepared a preliminary draft international convention on the subject. The draft and the two series of "recommendations" were considered by the Economic Conference of May 1927, which recommended that an International Conference should be held with the object of settling the matter by a convention embracing as many countries as possible. The Economic Committee in conjunction with the Secretariat immediately began the necessary preparations, such as collecting all useful information with such assistance as appeared most appropriate.

3. Customs Formalities.

The Economic Committee examined in detail another class of abuses due to the maintenance of excessive, unnecessary, arbitrary and unfair Customs formalities and practices. Practices of this kind, which injure and place unjustified impediments in the way of international trade, are of course a violation of the principle of equitable treatment laid down in Article 23 (*e*) of the Covenant. The Committee avoided all questions bearing on the Customs and tariff policy of States and desired that the parties directly interested, namely, the Customs administration and the business world, should be consulted before any definite proposals were submitted to an international conference.

The preliminary work consisted in selecting from among the numerous problems connected with Customs formalities the main questions which could profitably be discussed at an international assembly of delegates of admitted authority and experience.

A first draft was submitted to the Governments for consideration, and most of them gave their opinions and offered suggestions on the subject. The draft was then twice examined from a technical point of view at Geneva, in 1923, by two groups of distinguished officials drawn from the Customs administrations of seventeen countries. The International Chamber of Commerce, representing the business world, also discussed and approved the draft at the Rome Congress in March 1923.

The final programme submitted by the Economic Committee to the International Conference held at Geneva thus already represented the result of long and diligent preparation.

The Conference met at Geneva on October 15th, 1923. Thirty-five countries sent their official representatives fur-

nished with the necessary powers to draw up and sign an international convention. A delegation from the International Chamber of Commerce was also present in an advisory capacity.

The Convention which resulted bears the date of November 3rd, 1923, and was fortwith signed by twenty-one States.

Up to the end of November 1927, the Convention has been ratified by 27 States, viz.

Australia, Austria, Belgium, Bulgaria, China, Czechoslovakia, Denmark, Egypt, France, Germany, Great Britain, Greece, Hungary, India, Italy, Luxemburg, French Protectorate of Morocco, The Netherlands, New Zealand, Norway, Persia, Roumania, Siam, South Africa, Sweden, Switzerland, Regency of Tunis (French Protectorate).

The Convention may be summarised in five words : Publicity, simplicity, expedition, equality and redress.

Publicity. The Customs regulations should be published in a simple and accessible form, and, further, any changes that are made in tariffs or in formalities shall be published at the earliest possible moment so that traders and others shall be immediately in a position to ascertain any changes that are made, or additional charges that are imposed.

Simplicity, that is, simplicity in Customs rules and procedure, so that prohibitions, restrictions and formalities should be reduced to a minimum.

Expedition. Such Customs rules and procedure as have to be imposed should cause as little delay as possible to the rapid passage of goods—and of passengers—from one country to another.

Equality. Apart from tariff policy, the formalities themselves shall not be utilised for the purpose of imposing any arbitrary or discriminating burden or restriction.

Redress. The Contracting States undertake to take appropriate measures to ensure redress by means of administrative, judicial or arbitral procedure in case of alleged abuse.

The Contracting States bind themselves to reduce as soon as possible their import and export prohibitions and restrictions to the smallest possible number, and, in those cases where the system of import and export licences is maintained, to observe the principles referred to above.

Further, several provisions aim at the introduction of greater facilities for commercial travellers. Thus, contracting States agree to consider as sufficient for the future identification of samples the marks affixed by the Customs authorities of other contracting States. Samples need not necessarily leave a country through the same Customs office as they enter. Unaccompanied samples will enjoy the same treatment as those accompanied by commercial travellers. Identity cards for commercial travellers will be uniform in all contracting States. Only in exceptional circumstances will consular visas be required. The cost of an eventual visa will not exceed the cost of the service.

Another article of the Convention, dealing with certificates of origin, is of considerable importance. Loud complaints, which in many instances are seconded by the Customs administrations themselves, are raised by business circles against certificates of origin and are chiefly directed against the cumbersome and arbitrary formalities which have to be complied with. They vary in different countries, undergo constant changes and are even in some cases used as a means of discrimination. Therefore, after adopting a general rule binding the contracting States to reduce to a minimum the number of cases in which these certificates are required, the Conference agreed upon a series of provisions having for their object the suppression of at least some of the abuses which constitute obstacles to international commerce. Thus, to

mention merely the more important of these provisions : the formalities and procedure connected with the issue and acceptance of certificates of origin shall be simplified and brought to the notice of the public in an adequate manner. The right to issue certificates of origin shall be extended to certain organisations. In the case of goods not imported directly from the country of origin, the country through whose territory these goods are forwarded shall have the right to issue certificates of origin. Consular visas for certificates of origin shall not in principle be required, and, if required, the cost of the visa shall not exceed the cost of issue.

The Conference also adopted a series of recommendations regarding the simplification of the formalities relating to the passage of goods through the Customs, the examination of travellers' luggage, the system of goods in bond and warehousing charges; the participating States agreed to give favourable consideration to these recommendations and considered the convening of a new Conference for this purpose.

This bare enumeration, summary as it is, of the principal provisions in the Geneva Convention shows that its title does not exactly correspond with the tenor of its clauses and that it contains certain or possible remedies for situations of fact which the business world, through the intermediary, more particularly, of the International Chamber of Commerce, has signalised as constituting very serious obstacles to the normal exchange of goods.

For this reason the Economic Committee has used every opportunity to urge the necessity of further ratifications to this Convention, which seems suited to form the basis of future progress in international commercial relations.

Further, it has noted with satisfaction that the Geneva Convention is being indirectly applied through the use made of some of its provisions in an increasing number of commercial treaties. In several cases certain questions are settled

by a mere reference to the Convention, which is thus tending to become established as recognised doctrine.

Contrary to the majority of conventions, which usually contain concrete and well-defined undertakings, the Geneva Convention contains, along with stipulations of this kind, certain general obligations not strictly defined and which led the Conference responsible for the Convention to include in the latter a provision whereby the contracting States undertake to furnish a periodical summary of measures adopted by them in order to ensure the simplification of Customs formalities. These summaries are forwarded to the Secretariat and carefully examined by the Economic Committee, which then reports upon them to the Council.

Up to the present 15 Governments have sent in reports to the Secretariat. These reports have been examined by the Economic Committee and reveal, to quote the report submitted by the Committee to the Council in March 1927 "the striking progress which has been made under the influence of the Convention both as regards the clauses which have a binding character and those which are merely in the nature of recommendations. The information thus obtained justifies the Committee in stating that the Geneva Convention has been attended with the most fortunate results".

4. Unjust discrimination as regards the treatment of goods in vessels.

The Economic Committee considered this matter at one of its sessions in 1922 and fully realised the desirability of the earliest and most general application of this essential principle. It gave special consideration to the question in the light of the recommendations of the Genoa Conference of 1922. In view of the wide divergences of opinion between the differet States as to the fundamental principles of tariffs and commercial policy and the importance which many of

these States attached to preserving their full autonomy in such matters, and also in view of the instability of economic conditions and the disorganisation of the exchanges which existed at that time, the Committee was not able to arrive at any generally acceptable principles which might usefully form the programme or an international conference or which might have been recommended to the States for adoption. In these circumstances the Committee had to limit itself to expressing the earnest hope that the principles embodied in the Genoa resolutions would receive the widest possible application.

5. Import and Export Prohibitions and Restrictions.

The study of this question by the Economic Committee is based upon a resolution by the Assembly of the League of Nations dated September 25th, 1924. This resolution was adopted on the proposal of the Italian delegation, which was inspired by the undertaking incumbent upon the contracting parties of the Geneva Convention of 1923 in virtue of Article 3, which stipulates that these parties will adopt and apply, "as soon as circumstances permit, all measures calculated to reduce such prohibitions and rectrictions to the smallest number".

By a decision of the Council of March 1927, an internarional diplomatic conference was called to Geneva on October 17th, 1927 to consider the draft of a convention drawn up by the Economic Committee. All States Members or the League and the most important States non-Members were invited to send representatives to this Conference.

The Conference sat from October 17th to November 8th and was presided over by M. Colijn, former Prime Minister of the Netherlands, who last May acted as chairman of the Commerce Committee of the Economic Conference. By this appointment, the Council marked its appreciation of the importance of the Diplomatic Conference as a first step

towards the application of the recommendations of the Economic Conference.

Thirty-four States were represented, namely, Australia, Austria, Belgium, Great Britain, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, The Irish Free State, Italy, Japan, Latvia, Luxemburg, Netherlands, Poland, Portugal, Roumania, the Serb-Croat-Slovene Kingdom, Siam, Sweden, Switzerland, Turkey, the United States.

The delegates included numerous senior officials habitually concerned with the negotiation of Commercial Treaties.

A delegation from the International Chamber of Commerce attended in an advisory capacity.

The Conference adopted a Convention in virtue of which the contracting parties undertake, within a period of six months after the coming into force of the Convention, and subject to certain duly specified exceptions, to abolish all existing import and export prohibitions and restrictions and not to impose new ones.

Certain rules are laid down as regards such prohibitions as may be considered as exceptions. A procedure of conciliation, arbitration or judicial settlement is provided in the case of disputes concerning the interpretation and application of the Convention. Conditions for the coming into force of the Convention have been carefully arranged to secure a maximum number of adhesions with a minimum of reservations to the principle of the general abolition of prohibitions. This procedure enables States in a special situation to make reservations after signing the Convention, with a view to the temporary maintenance of certain prohibitions; it provides for a meeting of the signatories next June or July to examine the situation in the light of the various reservations, the number of accessions and their geographical

distribution. The Convention may be denounced at the end of three years, if the temporary exceptions allowed have not been brought to an end.

In the preliminary draft drawn up by the Economic Committee, which served as a basis of discussion for the Conference, account had been taken of the necessity of maintaining certain prohibitions whose suppression did not, for certain special reasons, seem desirable. To this end, the draft provided for a series of exceptions based upon non-economic considerations such as national defence, public order and safety, the protection of animals and plants against disease, the protection of artistic property, the necessity of continuing to apply certain national laws or international conventions, the protection of State monopolies, etc.

The draft also provided a kind of safety-valve, in the form of a clause enabling Contracting States to re-establish prohibitions in extraordinary or abnormal circumstances (catastrophes, etc.).

There were protracted debates on this subject. From the very outset there were two currents of opinion, one in favour of limiting as far as possible the number of exceptions with a view to the general abolition of prohibitions; the other, that if too much were required, certain States would not be able to accede to the Convention. The question was to find a compromise, that is, to make the Convention as stringent as possible, while enabling the greatest possible number of States to adhere.

The Conference solved the difficult problem by a procedure which seems complicated, but should be effective. In the first place, it amended the articles of the draft Convention concerning exceptions, both in normal and abnormal circumstances and based upon non-economic grounds. The wording was made more precise so as to leave no loop-hole.

An additional article was drawn up enabling Parties to make reservations in regard to certain temporary exceptions, with the agreement of the other Contracting Parties; these exceptions concern prohibitions which States consider it impossible to abolish at once, but which they undertake to suppress as soon as the circumstances from which they arise no longer exist; and certain prohibitions which it would be difficult to abolish and which do not affect prejudicially the trade of other countries.

Certain reservations of this kind were made before the conclusion of the Convention and were examined by the Conference so as to make sure that there were no exceptions to the principle thus established (1).

Others may be communicated after the signature, but before February 1st, 1928, when Governments will have sufficient time to study the Convention. These will be examined when the signatories meet between June 15th and July 18th.

At this meeting the situation will be examined in the light of the reservations, and the number, kind and conditions of the signatures received. The conditions of the entry into force of the Convention and the time-limit for the deposit of ratifications will be determined.

It is also provided that in three or five years (according to the reservations) after signing the Convention, any Signatory may denounce it, should it consider that certain temporary exceptions have been unduly prolonged. Moreover, any Contracting Party can denounce the Convention five years after its entry in force. Finally, if, as a result of such denunciations, the conditions governing the coming into force of the Convention should cease to exist, a fresh Conference may be convened to examine whether the Con-

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(1) In one case, that of the export of Roumanian oil, the Conference agreed not to insist upon the maintenance of the principle, owing to special circumstances.

vention should, nevertheless, remain in force between States which have ratified it.

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This procedure merits special attention as it is one of the essential factors of the work of the Conference.

To sum up, it comprises reservations approved before signature; the possibility of making further reservations before February 1st, 1928; examination of the latter at a meeting of Signatories between June 15th and July 15th; the determination at that meeting of the conditions for the coming into force of the Convention and of the time-limit for the deposit of ratifications; the abolition, six months after the coming into force of the Convention, of all prohibitions the maintenance of which has not been agreed to; the possibility of denouncing the Convention three years after the signature, if temporary exceptions are unduly prolonged; the possibility of denouncing it five years after signature, for certain prohibitions; the possibility of convening a fresh Conference should the denunciations affect the general scope of the Convention.

The system was adopted in order to enable the greatest possible number of States to accede to the Convention and to enable the abolition of various prohibitions to take place without difficulty while leaving time for the measures which certain interested Parties will have to take. Thanks to this machinery, the Conference hopes—if there are sufficient accessions—that all prohibitions and restrictions which are not considered justified will gradually disappear and that in five years pre-war conditions will virtually have been re-established.

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To complete this analysis of the principal results of the Conference, two further points must be mentioned :

The first concerns the procedure of conciliation and arbitration provided for the friendly settlement of disputes regarding the interpretation and application of the Convention, reference being contemplated to a technical League body (to be appointed by the Council) or to arbitral and judicial procedure. Legal disputes will be referred to the Permanent Court of International Justice or to an arbitral tribunal, should one of the parties so request. This procedure may also be extended to disputes of a non-legal character.

There were exhaustive debates on these clauses, as compulsory arbitration is entirely new in this connection and the Conference wished to gain some idea as to its possible consequences.

The second point worthy of note concerns import and export restrictions to protect animals or plants against disease. While recognising that sanitary or veterinary measures might legitimately be applied, the Conference endeavoured to prevent such measures from becoming a disguised form of protection. For this reason it recommended the Council to cause studies, enquiries and consultations to be organised with a view to the convocation of one or more conferences of experts to seek means of determining what measures had proved effective against animal and plant disease and of adjusting them strictly to risks of infection.

These various provisions are embodied in a Convention, Additional Protocol, Final Act and Annex. The last mentioned document contains the reservations made by certain States together with their reasons.

The Convention was signed on November 8th 1927 by the following States :

Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Egypt, Finland, France, Germany, Great Britain and North-

ern Ireland, Hungary, Italy, Japan, Luxemburg, The Netherlands, Roumania, Siam, Switzerland.

It has since been signed by Sweden.

This brings the number of signatures on December 6th 1927 up to 19.

6. Tariffs and Commercial Treaties.

The International Economic Conference of May 1927 recommended :

> That nations should take steps fortwith to remove or diminish those tariff barriers that gravely hamper trade, starting with those which have been imposed to counteract the effects of disturbances arising out of the war.

It further recommended that the lowering of tariffs should be effected in three ways :

(1) Individual removal or diminution by nations of tariff barriers, starting with duties which have been imposed to counteract the effects of temporary disturbances arising out of the war;

(2) Bilateral commercial treaties between States;

(3) The Economic Organisation should examine, on the basis of the principles laid down by the Conference, "the possibility of further action by the respective States with a view to promoting the equitable treatment of commerce by eliminating or reducing the obstructions which excessive customs tariffs offer to international trade".

The Conference further invited the League of Nations to examine the possibility of establishing definite and uniform principles concerning the most-favoured-nation clause, and a common basis for commercial treaties. For this purpose

the Economic Organisation should undertake all the necessary discussions, consultations and enquiries to enable it to propose the measures best calculated to secure either identical tariff systems for *European* countries or, at least, a common basis for commercial treaties, as well as the establishment for *all* countries of clearly defined and uniform principles as to the interpretation and scope of the most-favoured-nation clause in regard to customs duties and other charges.

The last Assembly having taken note of the Report of the Conference expressed the desire "that the Economic Organisation of the League should take these recommendations as the basis of its work".

The question having been referred to the Economic Committee, the latter decided to collect information as to the situation in various countries as regards tariffs and commercial treaties so as to be able to judge, on the basis of this information, at what moment and under what conditions fresh steps could be taken towards common policy.

7. Commercial Arbitration

The question of arbitration in connection with disputes arising out of the execution of commercial contracts, and particularly the question of the value of arbitration clauses voluntarily included in commercial contracts between persons of different nationalities, has in recent years aroused increasing interest in Europe and in America. It is generally recognised that arbitration clauses possess considerable practical value and afford a means of avoiding litigation and loss of time and money; they have also proved an incentive to commercial integrity. The Economic Committee accordingly considered that an effort should be made to remove the obstacles to the general recognition of the validity of these clauses.

In July 1922, the Committee summoned in London a meeting of a Committee of Experts on legal and commercial questions. It was composed of six members (1), and was asked "to study the effect of agreements between residents in different countries to submit to arbitration disputes arising under commercial contracts; to examine any obstacles to the operation of these agreements arising out of the exercise of jurisdiction by the national Courts in matters within the scope of the agreements, and to consider how far such obstacles can be removed or restricted, and lastly, to consult, when pursuing their work, such organisations and persons as may seem desirable".

The Committee of Experts, in its report to the Economic Committee, made the following definite recommendations :

> "If two parties of different nationalities agree to refer disputes that may arise between them in a named country, an action brought by either party in any country other than that agreed upon as the place for arbitration ought to be stayed by the Court of the country in which it is brought, provided that : (*a*) the Court is satisfied that the other party is and has been ready and willing to do all things necessary to carry out the arbitration agreed upon; and (*b*) that the same Court is satisfied, either by a certificate of the Court of the country in which it has been agreed to arbitrate or by diplomatic methods, that the law of the latter country recognises and will make effective the arbitration agreement."

The Economic Committee fully endorsed the views of the Committee of Experts and considered that measures should be taken to compel merchants who have adhered

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(1) Mr. F. D. Mackinnon, Chairman (Great Britain), M. Ernst Meyer (Denmark), Professor G. Gidel (France), M. Kan-ichi-Kajama (Japan), Dr. J. Novak (Czechoslovakia) and Dr. M. Friedelberg (Germany).

to an arbitration clause to respect and comply with it. For this purpose it would be necessary to remove from the laws of the different countries anything that would allow merchants to break their engagements or that would justify them in having done so.

The Committee was also of opinion that those States Members of the League whose legislation or legal practice is still adverse to commercial arbitration agreements should endeavour to introduce as soon as possible measures to apply the above recommendation.

Later on, the Committee considered what other measures could be taken to produce practical results. In January 1923 it submitted to the Council a concrete proposal in the form of draft articles of a protocol. These were carefully examined by a Committee of Jurists and a revised text was communicated to the Governments, was reconsidered by the Second Committee of the Fourth Assembly, and adopted by the Assembly in its final form on September 24th, 1923, from which date the Protocol was open for signature at the League Secretariat.

The sole aim of this Protocol is to make it impossible in future for the legislation and jurisprudence of the contracting States to stand in the way of the efficacy of arbitration agreements, between parties living in different contracting States, even when the arbitration takes place in a country other than those to whose jurisdiction the parties to the contract are subject. Each contracting State reserves the right to limit this obligation to contracts which are considered as commercial under its national law (Article 1). The contracting States are thus placed under a twofold obligation, namely :

1. They must ensure the execution by their authorities, and in accordance with the provisions of their national laws, of arbitral awards made in their own territory (Article 3);

2. When their tribunals are seized of a dispute regarding a contract including an arbitration agreement under the terms of Article 1 and capable of being carried into effect, these tribunals must refer the parties, on the application of either of them, to the decision of the arbitrators (Article 4). This reference, however, will "not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative".

According to Article 2, the arbitral procedure will be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

All questions of private international law, including those which concern the enforcement of arbitral awards in a contracting country other than that in which the arbitral award was made, remain unaffected. These are extremely delicate and difficult points, and the Committee has purposely left them alone.

This Protocol was subsequently ratified by fourteen countries (on December 1st, 1927). Great Britain also adhered on behalf of different colonies, protectorates, possessions or mandated territories.

But the effects of the 1923 Protocol were destined to remain uncertain as long as an additional undertaking had not been entered into by the contracting States with regard to the execution of arbitral awards given outside their own territories. This omission seems to have limited to some extent the number of adhesions hitherto received. On the other hand, the business world is impatiently awaiting the conclusion of an international agreement in this connection (1). It is also certain that the utility of the 1923 Protocol will be

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(1) See particularly the resolution adopted by the International Chamber of Commerce at its Brussels Congress in June 1925, and by the Council of this body on November 6th of the same year.

directly proportional to the number of countries in which its provisions are applied.

In view of these facts, the Economic Committee, after proceeding to a preliminary study of the question on the basis of the considerations mentioned above, and of the work of the Conference on Private International Law held at The Hague in 1925, appointed a Committee of Jurists to draw up a new international agreement with a view to ensuring the execution of arbitral awards relating to contracts concluded between the nationals of the contracting States parties to the 1923 Protocol and pronounced in the territory of these countries.

These Jurists (1) who, in January and March 1927, held two sessions which were attended by a representative of the International Chamber of Commerce, drew up a draft Protocol which, after being adopted by the Economic Committee, was at its recommendation subsequently, communicated by the Council to all Members of the League together with the Report appended by the Experts, with the request that they should send in their observations before the Session of the Eight Assembly. The question of opening this Protocol for the signature of all States desirous of acceding thereto was at the same time placed on the Assembly Agenda.

In May 1927, the World Economic Conference had, moreover, considered how the practice of resorting to commercial

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(1) Chairman, M. D. Anzilotti, Professor of International Law at the University of Rome, Judge on the Permanent Court of International Justice.
M. Basdevant, Professor in the Faculty of Law, Paris.
M. Vaclav Hora, Professor at the University of Prague.
Mr. Benjamin H. Conner, Advocate, President of the American Chamber of Commerce in France.
Dr. Walker, President of the Vienna Clearing House.
Dr. Marc Leitmaier (replacing Dr. Walker at the second session), Ministerial Councillor at Vienna.
Mr. H. Claughton Scott, K.C. (Great Britain).
Dr. Volkmar, Regierungsrat, Ministerial Councillor in the Ministry of Justice, Berlin.

arbitration might be promoted in all countries, and had taken the view that the favourable results to be expected from the 1923 Protocol would not be fully secured unless arrangements were made to supply the deficiency referred to above.

The Second Committee of the 1927 Assembly, to which this matter was referred, decided to appoint a temporary sub-Committee of Jurists to examine the replies of Governments and to consider whether, in view of these observations, the draft should not be recast.

Following the discussions, of this sub-Committee, the Assembly decided, on September 26th, 1927, to open a Convention which any countries signatories to the 1923 Protocol may sign at any time, though the Convention may be ratified only by those who previously ratify the Protocol.

Instead of the form of a Protocol the draft was given that of a Convention containing in its Preamble a list of the participant Heads of States and of their Plenipotentiaries, in order to obviate difficulties arising out of the peculiar constitution of the British Empire.

The point whether an arbitral award has, or has not, the same force as a judicial decision in the country in which it has been made was not taken into account in the Convention. The Convention deals with the arbitral award considered by itself and as proceeding from the submission to arbitration, that is to say, from a private act.

The Preamble to Article 1 states that, if the Convention is to apply, (1) the arbitral award must have been made in pursuance of a submission to arbitration covered by the 1923 Protocol;

2) the award must have been made in the territory of one of the High Contracting Parties to which the new Convention applies; and

3) it must have been made between persons who are subject to the jurisdiction of a State which is a party to the new Convention.

These general conditions having been laid down, Article 1 sets forth the further conditions upon which recognition or enforcement of arbitral awards are contingent. They are :

a) that the award shall have been made in pursuance of submission to arbitration which is valid under the law applicable thereto;

b) that the subject matter of the award shall be capable of a settlement by arbitration under the law of the country in which the award is sought to be relied upon;

c) that the award shall have been made by the Arbitral Tribunal provided for in the submission to arbitration, or constituted in the matter agreed upon by the Parties and in conformity with the law governing the arbitration problem;

d) that the award shall have become final in the country in which it has been made;

e) that the recognition or enforcement of the award shall not be contrary to public policy or to the principles of the law of the country in which it is sought to be relied upon.

In spite of these conditions, it may happen in certain cases that recognition or enforcement will have to be refused. Article 2 enumerates these cases as being those in which the award has been annulled by the country in which it was made — the Party against whom it is sought to use the award was not given notice of the arbitration proceedings in good time, or, being under a legal incapacity, was not properly represented—the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration.

Article 3 deals with the case in which, apart from the causes of annulment referred to in Articles 1 and 2, the award

contains some flaw which may give grounds for legal action on the plea of invalidity in the country in which it has been made. In such a case, "the Court may refuse recognition or enforcement of the award, or adjourn the consideration thereof giving the Party a reasonable time within which to have the award annulled by the competent Tribunal".

Article 4 gives an exhaustive list of the documents and evidence to be supplied by the Party desiring to avail itself of the award.

The object of Article 5 is to prevent any interested party being deprived of the opportunity of *availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon*, whenever the said law or treaties contain more favourable provisions than the Convention.

Finally, article 6 states that the Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

The Convention was signed on December 6th, 1927 by Great Britain and Italy and on December 12th by France.

8. Legislation on Bills of Exchange and Cheques.

The question of the unification of the legislation on bills of exchange was considered at two Conferences held at The Hague in 1910 and 1912 on the initiative of the Dutch Government. At the second Conference, a convention and a uniform regulation were adopted by representatives of some thirty States, but for various reasons the convention was not ratified by any of the signatory countries.

The matter was not taken up again until the Brussels Financial Conference in 1920, when the Conference expressed its opinion that "activities of the League might usefully be

directed towards promoting certain reforms and collecting the relevant information required to facilitate credit operations". In this connection the Conference referred to the "advantages of making progress in the unification of the laws relating to bills of exchange".

The Economic Committee was accordingly asked to consider the question. It appointed a committee of four leading experts (1), whose report was published by the League and sent to all its Members for any comments they might desire to make. The conclusions reached by the Economic Committee were embodied in a report submitted to the Fourth Assembly, which adopted them. They may be summarised as follows :

The Economic Committee is convinced that the solution of this problem would have the effect of promoting commercial relations between the various peoples. But despite the fact that this opinion is shared by all legal and commercial circles everywhere, the deep-lying differences between the principles of the socalled "Anglo-Saxon" law and those of "Continental" law, and above all, the incongruous characteristics of the various systems of European law themselves, are such that for the time being the establishment of a common system is out of the question.

The Economic Committee, having examined in 1925 the replies to the above mentioned communication received from certain Governments and having also noted the tendencies prevailing in several countries, as well as a resolution adopted in June 1925 by the Brussels Congress of the International Chamber of Commerce, came to the conclusion that there was a real desire in the circles concerned to see an improve-

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(1) Professor Jitta, President of the Royal Dutch Commission for Private International Law; Professor Ch. Lyon-Caen, Honorary Dean of the Faculty of Law at Paris; Sir Mackenzie D. Chalmers, formerly Under-Secretary of State for the British Home Office; and Professor Franz Klein, of the University of Vienna.

ment in the present situation, and it therefore decided to resume the study of the question.

The Committee's investigations convinced it that in the present state of affairs it would be vain to attempt to achieve a general unification of legislations in this branch, but that appreciable progress might be realised in the direction of a progressive assimilation of the different national legislations and particularly of those of the "Continental" type.

Nevertheless, before taking steps in this direction, the Committee desired to ascertain how far the differences existing between the different legislations, both as regards bills of exchange and cheques, constituted in practice a hindrance to commercial transactions.

With this end in view, it applied to certain experts specially qualified to give an authorised opinion (1). These experts met in December 1926. Without seeking to make a complete enumeration of the differences existing on these subjects between the various legislations and of the difficulties which they involved, the experts confined themselves to indicating those difficulties which, owing to their frequency and importance, justified in their opinion an attempt to bring the legislations closer together, and which seemed to them capable of being regulated by means of international agreements.

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(1) Chairman : Mr. Westerman, Vice-President of the International Chamber of Commerce.

Dr. Hans von Flotow, Ministerial Counsellor, Berlin.

M. Vercheval, Secretary-General of the Banque de Commerce, Antwerp.

M. Weiller, barrister, Milan, delegate of the Fascist General Banking Federation.

M. Yano, Manager of the London Branch of the Yokohama Specie Bank.

M. Max Vischer, Chief Secretary of the Swiss Association of Bankers, Basle.

M. Felix Goller, Manager of the Zemska Banka, Prague.

M. Ernst Meyer, President of the Committee of the Merchants' Guild, Copenhagen.

Mr. Alwyn Parker, C.B., C.M.G., Director of Lloyds Bank, Ltd., London.

Mr. Albert Breton, replaced by M. Ralph Dawson, Vice-President of the Guaranty Trust Co. of New York.

M. Louis Dreyfus, Banker, Paris.

The experts shared the Committee's opinion as to the utility of concentrating attention in the first place on attempting to assimilate or bring closer into line the legislative provisions of the countries belonging to the Continental system. If this could be achieved, it would greatly facilitate an eventual rapprochement between the Continental and Anglo-Saxon systems.

The Economic Committee came to the conclusion that the time was now ripe for entering upon a new phase, consisting in the drafting of the text of articles suitable for the application of the solutions recommended by the experts with regard to the problems to which they drew attention and the necessity and urgency of which they emphasised. It therefore decided to summon a further meeting of experts, consisting chiefly of jurists, to draw up these texts.

This Committee (1), consisting partly of members of the Committee which met, in December, 1926, held a session in November 1927, and furnished the Economic Committee with a report in which it first of all expressed the opinion that the nature of its proposals for the solution of the problem under consideration depended essentially on the method subsequently adopted for securing as unanimous as possible an acceptance of the proposed rules.

The experts again expressed their belief in the expediency and possibility of reaching, by means of an international conference, an agreement which "would reduce difficulties arising out of the differences which now exist between the various legislations of the Continental system".

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(1) Chairman : M. Percerou, Professor at the Faculty of Law of Paris.
Members : Dr. Hans von Flotow, Ministerial Counseller, Berlin.
M. Hermann Otavsky, Professor at the University of Prague.
M. Xavier Janne, Professor at the Faculty of Law at Liége.
M. Joseph Sulkowski, Professor at the University of Posen.
M. Max Vischer, First Secretary of the Swiss Bankers' Association, Basle.
M. Edouardo L. Vivot, Doctor of Laws of the University of Buenos Aires.
M. Auguste Weiller, of the Fascist General Banking Association.

Guided by the experience of the 1912 Hague Conference they hold that it will be necessary to abandon the idea of "submitting a uniform law to the various countries for acceptance as it stands, without the national parliaments, which are ultimately sovereign in this matter, being able to make the slightest alteration by means of amendments".

Accordingly they proposed to lay down "a number of essential rules which States acceding to the agreement would undertake to embody in their respective laws by independent enactment".

They suggested that when this work has been completed, the results should be communicated to the various Governments, who would be requested to send in their observations. In this manner, the original texts could be subsequently reviewed and any alterations or readjustments which might appear necessary to ensure the success of the scheme could then be made.

In the opinion of the experts it is only at this stage that it would be expedient to invite the various Governments to be represented at an international conference for the purpose of concluding the desired agreement.

9. Statistical Methodology.

With the object in mind of achieving international comparability in national statistical data, and in accordance with a resolution passed by the Genoa Conference, the League of Nations appointed a Committee on Statistical Methodology to study the principles on which certain classes of economic statistics were compiled, and to make recommendations as to the methods which could with advantage be applied internationally. In view of the valuable work which had already been accomplished in this connection by the International Statistical Institute, a private society which had been founded

with the express object of promoting uniformity in statistical methodology, the Committee in question was nominated jointly by the League and by this Institute, and the recommendations put forward by the Committee were submitted to the general conferences of the Institute before circulation to the Member States for their consideration. Amongst the subjects on which recommendations have already been put forward may be mentioned statistics relating to :

(1) International trade;
(2) Agricultural production;
(3) Fisheries;
(4) Censuses of production;
(5) Current industrial production;
(6) Stocks.

The programme of work for this Committee on Statistical Methodology has been drawn up on each occasion by the Economic Committee, and it will be noted that, in choosing its subjects, the Economic Committee has advanced from those on which the information already collected by the various national administrations was relatively complete to those on which it considered that it was not only desirable to promote comparability of methods but also to stimulate the collection and publication of data which are at present defective or wholly lacking. The information at present available with reference to industrial production and more especially to the stocks of important raw materials is extremely sparse, except in the United States of America and certain of the British Dominions. The endeavour of the Economic Committee and of the Council of the League to induce Governments to supply fuller and more frequent information on these subjects has not been confined to the work accomplished by means of this particular Committee on Statistical Methodology.

10. Unification of Tariff nomenclature.

The World Economic Conference of May 1927 recommended that the Council of the League should take the initiative in drawing up an appropriate procedure for establishing, in liaison with the producing and commercial organisations concerned, a systematic customs nomenclature in accordance with a general plan covering all classes of goods. According to this recommendation, the Council decided to invite the Economic Committee to start as soon as possible a preparatory study concerning the unification of tariff nomenclature. In July 1927 the Economic Committee instructed the Secretariat to convene a meeting of five experts with instructions to consider the different principles on which the general framework of a tariff might be constructed, and also to make suggestions as to the later stages of the study of this question. The experts were to bear in mind on the one hand the guiding principles embodied in the resolution of the Economic Conference in regard to the unification of nomenclature and to the simplification of Customs tariffs, and, on the other hand the necessity of subsequently securing the co-operation of economic interests.

In accordance with the decision reached by the Committee, a Sub-Committee of five experts—Belgian, Czechoslovak, French, German and Italian—was formed. This "Sub-Committee of Experts on Tariff nomenclature" met at Geneva from August 22nd to September 1st, 1927 and drew up a preliminary general framework of a nomenclature accompanied by a commentary indicating what, in the view of the experts, the sections and chapters of the draft should contain. The experts, after having investigated the possibility of classifying under the different categories of the new framework the tariff headings of their respective countries, held a second session from October 11th to 31st. At that

session, the Sub-Committee, revising its whole work, drew up a definitive preliminary draft customs nomenclature comprising 20 sections, among which all trade commodities are distributed in logical order on the basis of the principles set out above. In these 20 sections are classified, first the principal products of the three natural kingdoms, and then the industries which transform the principal natural raw materials and mineral products. The latter sections deal with the industries which combine or transform the products of those mentioned above to produce new articles capable of different uses from those of the material they are made of. In order to make the new nomenclature readily comprehensible, sub-classifications have been introduced into each section. These take the form of chapters, of which there are 94 in the entire nomenclature.

The report of the Sub-Committee with its two annexes, comprising the preliminary draft nomenclature and explanatory notes, was submitted to the Economic Committee in December 1927. The Committee instructed the Secretariat to bring it to the knowledge of the competent circles and asked the members of the Sub-Committee to make enquiries on the subject in their respective countries.

II. Economic Crises and Unemployment.

In 1921, the General Labour Conference called for an enquiry into the national and international aspects of unemployment and the means for combating such unemployment. The Conference invited the International Labour Office to enlist the services of the Economic and Financial Organisation of the League of Nations, with a view to finding a solution of any questions falling within its own competence that an enquiry into the problem might raise.

This co-operation, having thus been initiated, was subsequently entrusted to a permanent Sub-Committee, respon-

sible to the Economic Committee, which was appointed for the purpose of enquiring into the principal causes of the present economic depression, of which unemployment is only a symptom. The necessity for closer co-operation with the International Labour Office, however, soon made itself felt, and accordingly a Joint Committee on Economic Crises was set up, consisting of the Sub-Committee mentioned above, four experts appointed by the International Labour Office and three members of the Financial Committee.

Since 1924, the Joint Committee has been engaged on an enquiry into the very complicated question of economic barometers. In the opinion of the Committee, it is proved beyond doubt that excessive fluctuations in trade activity are highly prejudicial to stability of employment, and that it would be very desirable, if possible, to diminish the intensity of such fluctuations. The Joint Committee also considers that the principles on which credit facilities are accorded to industry and trade may be an important factor in accentuating or checking the fluctuation. Consequently, the evils caused by fluctuation might, to some extent, be mitigated if, in arriving at decisions governing credit policy, particularly in certain phases of the upward movement of the trade cycle, regard were invariably paid to all data as to relevant economic conditions, including the tendencies of the labour market and prices.

The Committee soon came to the conclusion that it would be desirable to publish in the League *Bulletin of Statistics* a number of specially selected indices of economic conditions, with a view to forecasting business movements.

With this object in view, the Joint Committee recommended that Governments should collect and publish, as often as this could be done, data which might be of use in compiling as accurate indices as possible, and it laid particular stress on the importance of statistics as to output and stocks. Under instructions from the Council, this recommendation

was communicated to all Governments Members of the League of Nations.

Further, the Joint Committee summoned a meeting of a number of experts (1) to advise as to the scientific and technical aspects of the compilation of indices and economic barometers and the elucidation of the economic criteria resulting from their methodical study.

Further, the Joint Committee recalled and adopted the resolutions of the Financial Committee of the Genoa Conference in 1922 and expressed its conviction that the principles laid down in these resolutions are entirely applicable in the present circumstances.

The Joint Committee decided to pursue by every appropriate means its enquiry into so-called "cyclical depressions", and proposed to collect data which would enable it to form a more accurate idea of the laws governing periodic crises and the methods of mitigating their consequences.

The Committee fully realised that, in regard to this matter, it should not devote its whole attention to the free play of industrial enterprise, since the economic activity of a country is also influenced by restrictions and disturbances due to Government intervention and the characteristics of the economic system in each country.

It pointed out that the precarious nature of commercial agreements concluded for short periods is liable to give rise to crises.

As regards the economic difficulties of the present moment and the excessive fluctuations of prices which accompany

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(1) Chairman : M. Flux; members : Dr. Basch, Professor Bowley, Dr. Furlan, Professor Gini, M. March, M. Methorst (replaced by Jonkeer de Bosch Kemper), Professor Olbrechts and Dr. Wagemann.

them, the Joint Committee was of opinion that the following factors were deserving of special attention :

(1) The excessive and artificial development of certain industries which were created to meet war needs and which are incompatible with the proper organisation of economic life in time of peace, as well as the establishment of certain artificial industries;

(2) The confusion into which international trade has been thrown by excessive Customs protection;

(3) The unstable or exaggerated character of fiscal systems;

(4) The Joint Committee also reserved for closer study the variations in the system of prices and the economic disturbances produced by exchange fluctuations, the excessive scale of commercial profits and the excessive profits of middlemen.

12. Protection of the Foreign Buyer against Worthless Goods or Goods of Bad Quality.

The Venezuelan delegate to the Third Assembly, M. Zumeta, called the attention of the Economic Committee "to the harmful effect on legitimate trade of the manufacture and sale of products which, though not infringing the regulations governing trade-marks and patents, are nevertheless a form of fraud owing to the various devices intended to disguise their real nature".

In 1923 and 1924, the Economic Committee submitted to the Council two reports on this question, which, in certain respects, is connected with that of unfair competition in the broad sense of this latter term.

In the first report, the Committee laid stress on the fact that protection of the consumer against worthless goods is

primarily a matter for national legislation and that it is important, from the point of view of international trade, that any measures taken with this object in view should not be of a kind to discriminate between imported goods and similar goods of national origin, or to impose undue burdens on international commerce.

The Committee subsequently showed that the system of Customs prohibition or restrictions is quite unsuitable to deal with the alleged defective quality of goods. It examined the various means suggested for remedying the state of things described by the Venezuelan delegate and came to the conclusion that the most effective method by which the buyer can protect himself is for the latter to exercise care in his choice of the export firms with which he deals. But it observed that, in many countries, more or less effective guarantees were available, of which the general public should be in a position to take advantage, and accordingly that all the facilities provided in exporting countries for testing, verifying and certifying the quality of goods should always be fully available for the benefit of the overseas buyer as well as for that of the home consumer.

It is, moreover, desirable that the public should be better informed as to the existence of national legislation designed to ensure a minimum standard of quality as regards the composition or manufacture of certain commodities—that is, legislation which provides for control and verification by means of certificates or compulsory marks. It is also desirable that the public should be aware of the existence of certain official, semi-official or private organisations for testing certain classes of goods at the request of the producer or of the purchaser, and guaranteeing their quality by means of marks or certificates. The general public might likewise be better acquainted with "standard marks" intended to be affixed to goods which comply with specifications laid down by competent technical institutions or committees, such as

standardisation committees, and with the mark adopted by some countries or associations to provide guarantees as to the origin or genuineness of certain goods.

With a view to spreading information of this kind, as far as the results of its enquiry permit, the Economic Section of the Secretariat has prepared a pamphlet giving, in respect of a large number of countries, such data as it has been possible to collect. Unfortunately, these data are not complete, but it is hoped that the effect of provisional publication will be to induce those countries which have not yet provided the necessary information to do this at an early date, so that it may subsequently be possible to publish an almost complete list of the various measures to which buyers may resort for the purpose of avoiding any disappointment when placing orders abroad.

13. Publications.

The earliest economic publications of the League were those prepared for the International Financial Conference which took place at Brussels in 1920. This Conference declared, in its opening resolution, that the first step in financial reform "is to bring public opinion in every country to realise the essential facts of the situation, and particularly the need for re-establishing public finance on a sound basis as a preliminary to the execution of those social reforms which the world demands". It urged, therefore, that the work of collecting and publishing at regular intervals the essential information concerning the financial situation of the world should be undertaken forthwith and developed.

Since that date, in accordance with this recommendation, a long series of financial and economic publications has been issued. The choice of subject and the manner in which the subjects have been treated have always been determined primarily by the consideration that the essential object of

this work was to inform public opinion on immediate and vital problems. The first memoranda prepared, therefore, dealt with the questions of public finance, currency and, as the various currencies became stabilised and new banks were founded, with the central banking position. In order to complete the picture of the currency and banking situation, a volume on joint-stock banks is now in course of preparation.

In 1920 and the years immediately following, the gravest difficulties that the various countries had to face were primarily national in character. The attainment of budgetary equilibrium or the stabilisation of domestic currencies could only be assisted by international action after certain indispensable national measures had been adopted, but gradually the international aspect of the financial problem became more important, and the Third Assembly of the League of Nations accordingly passed a resolution to the effect that "a study of the various questions connected with the stabilisation of currencies, and in particular that of the foreign trade balance and balance of payments of various States, . . . be actively pressed forward so as to lead to the publication of reports which will throw light on this question".

In compliance with this resolution, the publication of what have now become the annual volumes on international balance of payments and foreign trade was initiated in 1924. These volumes contain, in addition to a collection of such estimates of balances of payments as have been made, a study of the changes in the total quantum of world trade, in its direction, composition, etc., and detailed analyses of the commerce of all the major trading units. They have more recently been supplemented by a memorandum on production and trade.

All the publications mentioned above are issued at intervals of a year or more, and the consequent gap in the information is filled by the *Monthly Bulletin of Statistics*, which contains a collection of all most important monthly economic

statistics available. The primary intention of this *Bulletin* is that it should serve as a collection of indices of the changes in economic prosperity. In addition, special studies have from time to time been made, of which the report on the economic situation in Russia in 1922 may be quoted by way of illustration.

This series of memoranda, and in addition the special reports published with reference to, for instance, the economic situation and financial reforms in Austria, Hungary or Estonia, embrace together a very considerable volume of economic information with reference to the world as a whole, and the Council of the League considered that it would be advisable to summarise the most important information thus scattered through a number of publications into a single volume, and, in accordance with its recommendation, a *Statistical Yearbook* has now for the first time been compiled.

From the foregoing observations the essential characteristics of the economic publications of the League and the policy which has guided its work in this connection have to some extent been indicated. In the first place, that policy has been from the beginning essentially pragmatic. It has been the object of the Economic Organisation to concentrate on the particular problems which were of vital importance at the moment, but, while it has been the intention of the Economic Organisation to inform the public, it has not endeavoured to mould public opinion. The scientific character of the economic publications has not therefore been sacrificed to purely popular exposition. An attempt has been made to study the various problems selected at once as profoundly and as widely as conditions permitted, and to interpret and express the results of the enquiries with scientific accuracy. But the final digestion of the facts collected has been left to the financial Press and popular economic writers.

Secondly, a logical sequence has been pursued in the

choice of subject, a sequence which, as we have seen, has run parallel to the actual course of post-war economic development. Thus there has been a progression from the national questions of public finance, inflation, deflation, etc., to those of international accounts, international trade, the movement of capital and the effect thereof on the rate of interest; from currency questions in their narrower sense to those of the central banks and later joint-stock banks; from international trade to production. The documentation which has been prepared for the Economic Conference will be found to be a natural complement to the works which had already been issued before the Conference.

The whole of the work demanded, of course, the active co-operation of the Governments of the various Member States, and it is thanks to the willingness with which their assistance has been rendered that its execution has proved possible.

It must be remembered, however, that the whole undertaking represents a new endeavour. These world surveys have no precedent. They are dependent for their success on the gradual amelioration of the data on which they are based. Simultaneously with the work of study and publication, therefore, the Economic and Financial Organisation has endeavoured to promote the collection of information on a comparable basis and the promotion of natural economic studies. Such information is essential to the world economics of the future.

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